SORRY RUSH, WE'RE A CENTER-*LEFT* NATION

THE PORN INDUSTRY LOBBIES FOR A STIMULUS

HOW OBAMA CAN WIN THE BATTLE FOR THE COURTS

THE AMERICAN PROSPECT

LIBERAL INTELLIGENCE

MAY 2009

The Future of RISK

Markets can't protect us. What will?

THE AMERICAN PROSPECT

WWW.PROSPECT.ORG VOLUME 20 • NUMBER 4 MAY 2009

"Today, basically, on Wall Street, the big money is made by taking risks."

— BERNIE MADOFF

FEATURES

FIVE WAYS OF LOOKING AT RISK

Cover art by John Ritter

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DEPARTMENTS

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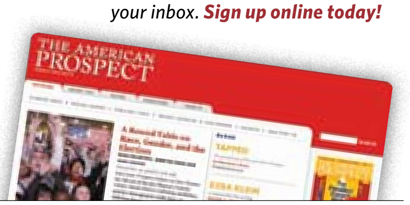

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Revolution Amid Recession

UNTIL RECENTLY, THE OPTIMISTIC ASSUMPTIONS OF an era of prosperity dominated ideas about the information revolution. Although many observers recognized that new technology would bring "creative destruction"—making old industries obsolete, while opening up new ones—the emphasis has been on the "creative" part, not on the "destruction."

Amid an economic crisis, however, the costs of change become more conspicuous, though the prospect of future payoffs is, if anything, more urgent. Some industries are now facing a double whammy from the recession and long-term structural change eroding their businesses. Newspapers and other media are in this position. So are many workers whose jobs have moved overseas thanks to global telecommunications. Yet there's no going backward; new technology has to be part of the solution for both threatened institutions and Americans out of work.

That assumption underlies the stimulus package adopted by Congress as well as other policies pursued by the administration. The stimulus includes $19 billion to promote health information technology and $7.2 billion to support broadband connections in underserved or unserved areas. The legislation also gives the Federal Communications Commission a year to come up with a plan for universal broadband service. The purpose of investing in both health information technology and broadband is not just to provide an immediate boost to employment but to further long-term growth and the ideal of a more inclusive society—universal coverage in both health care and communications.

America's problems in health care and communications bear a resemblance to each other. In both spheres, there are sharp inequalities in access to a vital service. In both, the United States has performed relatively worse than other advanced societies in recent decades. And in both, progressive reforms confront entrenched corporate interests.

In health care, the problems aren't new. The United States has long been the one major rich democracy without universal coverage. Information technology isn't going to address the core problems, but it can improve the quality of care, perhaps help control costs, and thereby facilitate reform.

In communications, the United States has historically played a leading role. The early American republic created a postal system that, unlike any other at the time, reached into every village and supported the free circulation of news and political opinion. When new technologies developed in the 19th and early 20th centuries—the telegraph, telephone, and broadcasting—the United States often pioneered the innovations, and they spread more quickly in America. Although the new communications industries were prone to monopoly, the characteristic American pattern was to deny the monopolist of one era's communication system control over the next. The result was a higher level of what economists call "intermodal competition" than other countries developed.

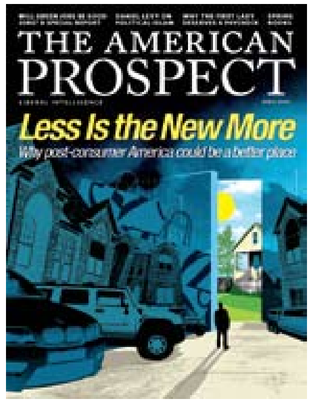
> ***Watch out, universal broadband could make all the other major electronic media obsolete.***

In recent decades, however, the United States hasn't always been in the lead. To be sure, the Internet is an American invention, and it followed the classic pattern, originating in institutions (the Defense Department and the universities) that had no stake in the communications status quo. But because of poorly conceived policies, two other recent innovations—mobile phones and broadband—have spread more rapidly abroad. By one measure, the United States ranks 15th in broadband penetration, as people elsewhere get faster connections at cheaper prices. In America, where the cable and telephone companies can prevent rivals from using parts of their networks to deliver broadband, they provide access only at a price and to those areas they expect to be profitable. And those incentives haven't been sufficient to drive faster deployment.

Studies have shown that expanded broadband would have substantial economic benefits, but watch out: Broadband can transmit any medium, and universal broadband service (wireless as well as wireline) could therefore make obsolete *all the other major electronic media*—over-the-air broadcasting, cable television, and both landline and cell phones.

If history is any guide, the best way to get universal service is to support new entrants with no interest in the status quo—for example, by opening up more of the spectrum to unlicensed wireless. One way or another, broadband is going to be spectacularly disruptive, and the challenge isn't just going to be getting everyone connected. A vision for a broadband democracy has to include a realistic appreciation of its implications for the institutions and values that democracy requires. As the current collapse of newspapers suggests, the kind of society we have—and especially our public life—will depend on the choices we make. **TAP**

— PAUL STARR



BACK TO SQUARE ONE

In response to **ROBERT FRANK**'s cover story, which argues that consuming less can make our society better, **WONKETTE** writes, "Maybe we won't ever have indulgent capitalist luxuries like homes or jobs anymore, like we did in 2007, but maybe that's cool now. Yeah, see, we can be happy—*happier*, even—without going back to the way we were. If you look at gross spending as something that's done to achieve actual goals—buying $150,000 worth of Oscar de la Renta pantsuits from Neiman Marcus, for example, in order to look like you have a basic understanding of the US government. Anyway, when everyone buys $150,000 worth of pantsuits, then no one has a leg up, as it were, and we're back to square one. Well, back to not being able to afford our mortgages on square one."

GOLD STARS, RED PEN

DANA GOLDSTEIN's "Education Wars," about the new alliances and potential for consensus on education reform, sparked a mini-war among education bloggers. **DANIEL LUZER** argues in the ***COLUMBIA JOURNALISM REVIEW*** online that Goldstein "does not indicate that anything is actually *changing* in American education. The *Prospect* article makes it sound as if these changing alliances are a matter of great import, rather than just a very routine part of policymaking. The piece fetishizes 'consensus-building' without stopping to examine how consensus-building actually relates to education reform." Education Sector's **ANDREW ROTHERHAM**, blogging at **EDUWONK**, also waves a wary finger: "Luzer's a little too harsh on Goldstein's article, but he does point up a real risk for reformers: Namely that all this happy talk about how everyone is on board with reform now could lead to a superficial sense that things are changing or even some cosmetic changes when, in fact, not much actually changes for students in schools."

Goldstein responds on ***TAPPED***, "I take issue with Luzer's critique that the outcome of the political 'education wars' will not affect real people's lives. To the contrary, how teachers are recruited and compensated, for example, will affect millions of American families during a time of recession."

THE MICE IN COUNCIL

In response to **TARA MCKELVEY**'s article on **RICHARD HOLBROOKE** and the future of U.S. policy toward Afghanistan and Pakistan, reader **G.M. CHANDU** warns: "The only way to confront the extremists is to impress upon them and convince them that they are not following the dictates of Islam, and this brings up the question ... of who among the present day Islamic scholars/leaders can dare 'bell the cat'"—to attempt a seemingly impossible task, a reference to Aesop's fable, "The Mice in Council." Chandu answers his question: "Certainly not the Ayatollahs of Iran as they are considered 'apostate' by the leaders of al-Qaeda and the Taliban. Certainly not the moderate Sunnis of Afghanistan and the rest of the Islamic world as they are classified by these extremists as 'tools of the Western civilization.' Certainly not the female population of Afghanistan as they are considered 'mere chattels.' Certainly not Mr. Holbrooke who is a Christian and an American."

Write to us at letters@prospect.org or to The Editors, The American Prospect, 1710 Rhode Island Ave., NW, 12th Floor, Washington, D.C. 20036. Or join the conversation online at www.prospect.org

FROM THE EXECUTIVE EDITOR

THE ECONOMIC AND FINANCIAL CRISES ARE CERTAIN to change our world in lasting ways. In our April issue, we looked at the possibilities—some of them healthy—for a society in which we expect and consume less. The crisis will also change fundamental assumptions: Never again will we think about risk in quite the same way as something that can be measured, calculated, and wiped away solely by the markets. We know now that we got risk wrong, in a sweeping and systematic way, over the past three decades of market fundamentalism. But what would America look like if we started getting it right? For this issue, we asked five people who know their way around the worlds of finance, regulation, housing, and economic security to look into their crystal ball and speculate about how we'll manage risk in the future. (And, no, crystal-ball gazing itself is not the answer.)

Charitable foundations are also looking forward to seeing what the age of Obama holds for them. At their best, foundations have been an engine of innovation for progressive social policy, designing and testing ideas that government can then take up and expand. But in the long era of conservative ascendancy, that transmission belt was broken. Foundation leaders are convinced that the Obama administration will put them once again at the vanguard of public policy. But is it all talk? Lauren Foster, a first-time *TAP* contributor who previously covered philanthropy for the *Financial Times*, explores that question.

Also making her debut in the *Prospect*, Michelle Goldberg, a former senior writer at *Salon* and the author of *The Means of Reproduction: Sex, Power, and the Future of the World*, explores the ways in which women's rights and global governance are intertwined in Africa, particularly around the issue of female genital mutilation. It's a lot more complicated than you might expect. We also welcome Goldberg as a regular contributor to *TAP Online*; look for her blogging on *TAPPED* and her column every other Tuesday. — MARK SCHMITT

Up Front

THE QUESTION: WHAT ELSE SHOULD THE FEDERAL GOVERNMENT NATIONALIZE?

"If they want a return to the taxpayer? The marijuana trade." **—*Eric Rauchway***, U.C. Davis

"Iceland, which will be used as refrigerated storage space and harvested for avant-garde pop musicians." **—*Reihan Salam***, The Atlantic

"The Republican National Committee. It's a natural under lemon socialism; we're only taking over those enterprises with a failed business model." **—*Skip Roberts***, *SEIU*

THE XXX-FILES

Lobbying for the porn industry in a time of economic crisis

WE ALL KNOW that plunging home values and decimated 401(k)s are among the effects of the recession. But what about depleted sex drives? "People are too depressed to be sexually active," *Hustler* publisher Larry Flynt said in a January statement asking Congress for a $5 billion bailout of the adult industry. "This is very unhealthy as a nation. Americans can do without cars and such, but they cannot do without sex."

Girls Gone Wild founder Joe Francis, who is more likely to need bail than a bailout, told Hollywood gossip site TMZ that unlike spoiled, private-jet-riding auto executives, he would drive to Congress "in a white Prius" to ask for financial support for the porn industry. He could barely conceal his smirk.

But in a time of economic crisis, lawmakers are more likely to give the porn industry grief than gratitude. Legislators in California, New York, Florida, Texas, and Washington state recently proposed stemming budget losses through various skin tariffs, ranging from a Magnum-sized 25 percent sales tax on X-rated movies to a $5 "pole tax" on visits to strip clubs.

Thanks to the First Amendment, such measures are usually defeated by little more than gales of laughter. But Diane Duke, executive director of the Free Speech Coalition and the adult industry's only registered national lobbyist, isn't sniggering. "The state of the adult industry is not a joke," Duke tells me. Indeed. Like mainstream-media companies, the producers of pornographic films and magazines are threatened by piracy, and, above all, by free Internet content. In economic terms, porn consumption is "elastic" and thus a poor candidate for raising revenues via taxes: If it costs an extra $5 to rent a smutty DVD, a consumer is likely to stay home and turn off Google's SafeSearch filter.

So what's really behind recession-era finger wagging at porn producers? Probably just plain vanilla politics. Senate Republicans got hot under the collar when President Barack Obama appointed noted litigator David Ogden to the Justice Department's No. 2 post, deputy attorney general. Armed with a briefing prepared by Fidelis, a Catholic "family values" political action committee, Sen. Orrin Hatch of Utah decried Ogden's representation, in his private practice, of the American Civil Liberties Union, Playboy Enterprises, *Penthouse*, and even the scandalous American Library Association.

OGDEN

Guilty as charged. In 1986 and 1990, Ogden successfully required the Library of Congress to translate *Playboy* articles into Braille. In 2000, he argued against provisions of the Children Internet Protection Act that required libraries to censor pornographic online content. (In case you were wondering, according to Fidelis, Ogden is also a supporter of interpreting the Constitution according to "the latest fad of the intelligentsia." You know, because free speech is just a trend.) At Ogden's confirmation hearing, Hatch spat, "The pornography industry is excited about Mr. Ogden's nomination." That, it seems, is true. Diane Duke describes Ogden, who was confirmed on March 12, as a champion of her industry. "Everyone was calling me asking, 'What do you think about this?!'" Duke says of the Ogden hearings. "If someone [like Ogden] has a genuine respect for the integrity of the Constitution, that's who we should have in government, in all of our offices."

The porn industry used to be represented on Capitol Hill by the Raben Group, a powerful Democratic lobbying firm headed by Robert Raben, a former aide to Rep. Barney Frank of Massachusetts, the first openly gay member of Congress. But as Raben took on a glut of new clients in the wake of the Democratic gains of 2006 and 2008, the Free Speech Coalition and Raben Group parted ways. "We've grown up. We're ready to take lobbying on ourselves," Duke says. In the past, the Free Speech Coalition pressured Congress to act against creating a dedicated .xxx Internet address for pornography and in favor of allowing the sale of *Penthouse* and *Playboy* on military bases. Both efforts were successful.

A former senior vice president for Planned Parenthood of Southwestern Oregon, Duke is now based in California's San Fernando Valley but plans on coming to Washington, D.C., a few times over the next year to push the Free Speech Coalition's agenda with lawmakers. "I won't be giving you any names!" she jokes. Apparently, this lobbying effort comes wrapped in a brown paper bag.

In the meantime, Duke has her hands full in California, where the state Assembly recently floated a bill that would have required all adult-film actors to don condoms. The issue pitted Duke against her former employer; Planned Parenthood, of course, is all about promoting condom usage to the masses.

Porn is about fantasy, though, so Duke says condoms—which might remind viewers of unsexy topics like disease and pregnancy—should be *(continued on page 9)*

ERIC PALMA; ROGER L. WOLLENBERG / LANDOV

KATSUMI KASAHARA / AP IMAGES; JAY MALLIN / LANDOV

PARODY *by T. A. Frank*

"Our new Public-Private Investment Program will set up funds to provide a market for the legacy loans and securities that currently burden the financial system."

—Timothy Geithner, The Wall Street Journal, *March 3, 2009*

TIM'S TREASURES

NEW ~~TOXIC ASSETS~~ LEGACY LOANS: 2009 COLLECTION

Bittersweet Prime Delight This criminally underrated loan collection offers a rich, earthy foundation of Merced, California's most promising new homeowners layered with haunting overtones of borrowers in the pulsating hub of Gainesville, Florida. Add to this an exhilarating twist of fragile yet promising revenues from the vibrant exurbs of Flint, Michigan.
STARTING BID: $8 billion for the proud and privileged few ($92 billion for the rest of you)

Quality Purity Prime This certified pre-owned legacy loan has been refurbished and outfitted with a robust core of Reno, Nevada, condominium speculators and studded with the most promising pioneers of freeway proximity residing on or near median strips of California's Interstate 5. The Quality Purity Prime legacy loan still has that special "new car" smell and promises years of consistent performance. Included is a free 1,000-year warranty from AIG, backed by the Federal Reserve printing press and the wealth of seven generations.
STARTING BID: $23 billion for the hawkeyed connoisseur (several billions, trillions, whatever, for the rest of you)

Spicy Southwest Sizzler This Antelope Valley-based debt installation draws on the exceptional and lush heritage of eastern Lancaster, California, even as it subtly interweaves the resilience and charm of northern Phoenix, Arizona. This puckery pastiche of securities is backed by mortgages on some of the most cutting-edge innovations in tan stucco amid parched yet seductively abandoned remoteness. A must-buy for any financial trailblazer.
STARTING BID: Let's talk. Let's do lunch. We can definitely work out something that benefits you and us. Everyone wants this "crazy but in a fun way" deal to work.

Sub-prime Super Elegance Gird your loins, Golden State enthusiasts. This is your chance to stock up on Stockton. Indulge yourself in pure unblended sub-prime sweetness based exclusively on the seat of San Joaquin County. These multidimensional, now-you-see-them-now-you-don't securities offer you a chance to get in on the ground floor of tomorrow, *Blade Runner* edition, with loans on almost-completely-built mansions that stretch into thrilling, scorching panoramas of kidney-bean fields. A sub-prime yet truly prime object d'art in any visionary's portfolio.
STARTING BID: If you have read this far, then cancel your transfer of funds to Lagos and immediately park them in this limited-time-only offer. We want to work with you.

T.A. Frank is an Irvine Fellow at the New America Foundation.

Skin Tax: On the set of a pornographic film in Los Angeles

NICK UT / AP IMAGES

(continued from page 7) kept out of the picture. Adult-industry performers are regularly tested for sexually transmitted infections and expected to show up on set with paperwork declaring a clean bill of health. (This system hasn't always worked: In 2004, the industry suffered an outbreak of HIV.) Plus, condoms might make filming difficult, Duke says. "I'm very much pro–safe sex and pro–family planning," she swears. "But you've got eight hours of filming, and lights, and heat, so it's a very different atmosphere than it would be for people in general." (Isn't that what Viagra is for?) Not to mention, of course, "a lot of the demand is for films without condoms." If the Golden State ever did require condoms in skin flicks, the porn industry would likely pack up and leave town. And since the adult industry accounts for about 50,000 jobs in California—only 10 percent of which are acting in the films—the economic crisis probably precludes the state from such moral posturing.

But while porn's spokespeople defend their business as an economic stimulator, some adult-industry stalwarts are less sympathetic to the travails of other uniquely American industries. A few weeks after demanding a bailout, Flynt admitted the whole thing was a farce. "When we asked for the bailout for the porn industry, I didn't hold my breath, because I knew it wasn't coming," he said in a March 3 interview with MSNBC. Flynt's libertarian point, it seems, was that automakers don't deserve bailouts, either—those 3 million jobs be damned.

The porn industry's lobbying efforts may not be ideologically consistent, but at least they are consistently amusing. Duke, though, urges readers to stay serious. "Protecting our freedoms and civil rights is all that we ask," she says. "When we stigmatize sex, it becomes such a driving political issue. It's very unfortunate because it ruins something that should be wonderful and beautiful for people." —DANA GOLDSTEIN

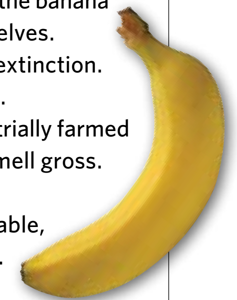
DIALOGUE: YES! WE HAVE NO BANANAS

What are the political—and taste—implications of the food industry-created banana monoculture?

ANN FRIEDMAN: The banana as we know it is about to die out. All of the bananas we consume in the U.S. are the same varietal, and one disease could wipe them all out. As a lifelong banana-hater, though, I can't say I'm too upset about it.

ADAM SERWER: That's pretty callous. Bananas are the most-eaten fruit in the country. Plus, what about all those people whose jobs depend on bananas?

ANN: OK, let me revise that. I am upset at the implications for the global food system and for people who work in the banana industry. But not about the loss of bananas themselves.



ADAM: But that's no reason to hope for banana extinction. Ann Friedman doesn't care about banana workers.

ANN: False! It's just that if I had to pick one industrially farmed food to go extinct, it would be the banana. They smell gross. They taste gross. They have a gross texture.

ADAM: Look, I love bananas. They're easily portable, they're sweet, and they come in their own wrapping. What other fruit does that?

ANN: Apples. Pears. Blueberries. Oranges. Lemons. Grapefruit ...

ADAM: The protective skin of a banana is far superior.

ANN: But think of all the people who have been injured after slipping on this "superior" packaging.

ADAM: Think about all the people who have been given hours of joy and mirth from such slippage. Also, while I respect your foolish decision not to eat bananas, you shouldn't ruin it for the rest of us.

ANN: You could argue that, because I don't eat the factory-farmed bananas that have created the monoculture (and thus the risk of extinction), I am actually doing more than you banana enthusiasts to keep this fruit around, as much as it pains me to say it.

ADAM: So in order to enjoy bananas, people have to not eat them and thus not enjoy them?

ANN: If every smoothie shop in America hadn't chosen to blend a banana into every single smoothie, where would we be? We might still have bananas in 20 years! For our children to be disgusted by.

ADAM: Well, I'd say it's more that lessons were not learned from the extinction of the previous popular variety of banana. We have to hold our corporate culture accountable for not insulating the banana against disease.

ANN: True. Also, apparently there was a serious downgrade in banana quality in the late 1960s, when the previous monoculture died out.

ADAM: Right, for the same reason, from the same disease! They just used another variety of banana that was immune ... but it's not immune anymore.

ANN: Maybe I would have even enjoyed pre-1968 bananas.

ADAM: We were so full of hubris—and bananas—that we didn't see this coming. It's a terrible tragedy. Almost Shakespearean.

ANN: They're like the Austrian royal family. Dead from inbreeding.

ADAM: Well, that doesn't actually mess with my whole Shakespeare thing, does it?

Expert Advice

BY MARK SCHMITT

ON JUNE 11, 1962, JOHN F. KENNEDY DELIVERED the commencement address at Yale. After some Harvard-Yale jocularity, he put forward the most memorable definition of that triumphal moment in what historians now call the era of liberal consensus: “What is at stake in our economic decisions today is not some grand warfare of rival ideologies ... but the practical management of a modern economy.” Economic problems of the 1960s, Kennedy said, are “subtle challenges for which technical answers, not political answers, must be provided.”

According to Arthur M. Schlesinger Jr., the speech was the work of a supergroup of Camelot intellectuals that included himself, John Kenneth Galbraith, Theodore Sorenson, and McGeorge Bundy. Its calmly persuasive, sensible pragmatism would sound familiar coming from our current president, and Kennedy's argument that concern about federal budget deficits was based on “myths” (marking his turn toward Keynesianism) would be at home in this magazine today.

And yet, one can recount the history of the subsequent decades largely as a chronicle of the political error of that speech. It was short-sighted in dismissing a “grand warfare of ideologies” at the very moment the Goldwater movement was being born, which would set the stage for a battle not between Marxism and capitalism but between a new ideology of unrestricted capitalism and the managed economy that seemed so commonsensical in Kennedy's time.

By taking public questions out of the domain of “political answers,” and leaving them to experts, as technical questions, Kennedy gave birth to two backlashes. From the left, in reaction to the failure of the great brains—notably Bundy's—in Vietnam, the New Left turned to the dream of participatory democracy, which in six years led to the unraveling of the liberal consensus on the streets of Chicago. On the right, a new conservatism found its voice in a kind of disingenuous anti-intellectualism and contempt for experts, exemplified by William F. Buckley's comment, “I'd rather be governed by the first 200 names in the Boston phone book than by the Harvard faculty.”

The erudite Buckley wasn't serious, and his was a bit of Yale-Harvard jocularity too, as well as a jab at Bundy, an old enemy who had been dean of the faculty at Harvard. But not everyone was in on the campus jokes. That phony populism gradually became the guiding principle of a party that four decades later made heroes of Sarah Palin and Joe the Plumber. We are still recovering from eight years of an administration governed by contempt for experts and facts, in which every problem could be solved with a political solution.

It is difficult to sustain a political vision based on solving technical problems.

George W. Bush left us with a staggering set of questions for which political answers are elusive at best. Like Kennedy at Yale, Barack Obama has had to make the case that many long-held political truths, such as that the deficit shouldn't get too high and that government shouldn't intervene in the private sector, are actually ideological myths. In his March 24 press conference, he reiterated that his mission is not ideological but is marked by “knotty problems” such as how to “improve liquidity in the financial markets, create jobs, get businesses to reopen, keep America safe.” Despite the fact that he is building what may turn out to be the most progressive presidency since Lyndon Johnson, Obama eschews ideology not just for tactical reasons but because it provides little guidance on bank bailouts, reviving the auto industry, dealing with international currency account imbalances, or shifting the whole economy to a lower level of consumption. The only way to develop a useful view on these questions is, as Obama said, to take “a couple of days ... to know what I'm talking about.”

And yet, as Kennedy would have found, it is difficult to sustain a political vision based on solving technical problems and trusting the experts, especially if many of the experts in a given field were complicit in the creation of the problems. The anti-expert backlash on the political right was automatic and to be expected—and is as unserious as Buckley. But it has arisen on the left, too, as in columnist David Sirota's call to reject the “eliteocracy” and “empower the population to make decisions for itself.” Participatory democracy lives.

Two lessons come from Kennedy's error. One is that the experts had better get it right. There is a huge political price to be paid for getting these technical questions wrong. The second is that, complicated as these questions are, “trust us” isn't a good enough answer. The Obama administration must find a way to bring the public in, to let it feel a sense of participation and ownership. Ideology, in a measured dosage, can help people understand where we're headed and why. TAP

A Give and Take on Immigration

BY ANN FRIEDMAN

THE DOMINANT ANTI-IMMIGRANT NARRATIVE IN THIS country—despite paeans to the mythical "melting pot" we read about in grade-school social-studies textbooks—is that immigrants *take*. They come here to take our jobs. They take up social services. They take formerly pristine street corners and make them disorderly by standing around looking for work. They take their earnings back home rather than spend them in the local community. These are the things I hear repeated on crap cable shows like Glenn Beck's or when I sit down to dinner with my conservative relatives.

Several years ago I did some reporting in a small town—Milan, Missouri—where around 50 percent of the 2,000 or so residents were recent Latino immigrants who had come for jobs at the town's pork-processing plant. The fascinating thing about Milan (pronounced *Mi*-lan, not Mi-*lan* like the city in Italy) was that, prior to the pork plant opening and the immigrant influx, the tiny burg had been all but dead. A small chicken processor provided jobs for a few hundred residents, but most businesses were shuttered, young people were moving away to find work in other cities, and the downtown consisted of a series of empty storefronts. While it was by no means a seamless transition from a town of mostly white, longtime residents to one that was nearly half Latino newcomers, at the time of my visit it was undeniable that Milan was more alive and more vibrant because of its new residents—despite what some of the old-timers said about immigrants "taking" resources from their community.

This narrative wasn't in the forefront of my mind as I watched the news unfold last May about the largest immigration raid in U.S. history. In Postville, Iowa, a town the same size as Milan, Immigration and Customs Enforcement (ICE) officials detained almost 400 undocumented workers. In the wake of the raid, I followed the stories of the separated families and deplorable detention practices. But it never occurred to me that something horrible was happening to *everyone* in Postville and the surrounding area.

Nearly one year later, the lingering effects of the raid make depressingly clear how misleading the "immigrants take from our communities" narrative really is. Postville Mayor Robert Penrod, who recently stepped down, told a reporter from *Mother Jones*, "Before, it was all hustle bustle, and you'd see people walking up and down the streets and driving and listening to music. Then all of a sudden, boom! I mean *nobody* was walking the streets." Formerly thriving restaurants were boarded up within months. Landlords began complaining of too many empty units. Even the big-box stores, which often seem like the only businesses that can survive in economically depressed rural counties, took a hit.

One year after the largest raid in U.S. history, we rarely hear stories of small towns suffering in the absence of immigrants.

After watching what happened in Postville, folks in Milan worried they would face a similar fate after an immigration raid. "I hate to think what we'd do without them," Jerry Hollon, a local prosecutor, told *The Kansas City Star*.

A Homeland Security official recently told *The Washington Post* that Secretary Janet Napolitano was delaying a number of ICE raids until such raids could be directed toward businesses and executives rather than workers. Still, broader policy changes are a long way off. President Barack Obama promised the Congressional Hispanic Caucus he would make a public statement in support of legalizing many of America's 12 million undocumented workers, but such a statement (or, heaven forbid, accompanying legislation) hasn't come.

That's disappointing but not surprising. In a time of economic crisis and job loss, the anti-immigrant narrative of "*those outsiders* are taking *our* jobs" has all the more resonance. Vice President Joe Biden conceded as much. "It's difficult to tell a constituency while unemployment is rising, they're losing their jobs and their homes, that what we should do is in fact legalize and stop all deportation," he said at a late March press conference in Costa Rica.

It's easy to acknowledge in big, sweeping terms that our economy depends on immigrant labor. But we rarely hear the stories of small towns in places like Iowa and Missouri suffering in the *absence* of immigrants. These are stories of immigrants not taking but giving life to their adopted communities, stories of how deporting workers actually weakens local economies.

As we push Congress to enact comprehensive immigration reform, we must think of this issue holistically. When it comes to immigration, everyone who lives in America—immigrant or not—has something both to gain and to lose, to give and to take. TAP

Five Ways of Looking at Risk

Everything Americans thought they knew about risk was wrong. Now what? To restore real prosperity, we'll need to get smarter about what we don't know.

It's Time to Rethink the Problem

BY MARK SCHMITT

How did it happen? How did the sub-prime mortgage crisis cascade into the Wall Street meltdown and then the worst recession since the 1930s? One answer crops up over and over: It was the math. According to *Wired* magazine, a single equation, the Gaussian Copula Function, brought down the financial system. Joseph Nocera of *The New York Times* attributes the Wall Street disaster to a mathematical system known as Value at Risk, which supposedly allowed a large financial company to calculate its exact chances of disaster. Financial writer Michael Lewis blames an older formula, the Black-Scholes model for pricing stock options. In other words, Wall Street came to believe that all risks could be priced and therefore known by math. If known, they could be managed.

That this was all a deadly illusion is now beyond argument. The financial and economic crises have their foundation in the most basic misjudgments about risk—not just about specific risks, although there were plenty of those—but about the nature of risk itself. In 1921, the economist Frank Knight distinguished between "risk" and "uncertainty." Risk was something that could be calculated, as in a game of roulette, whereas uncertainty (in John Maynard Keynes' more accessible summary) was something like "the prospect of a European war," about which "we simply do not know." In the frenzy of calculations, the concept of *uncertainty*—or what former Defense Secretary Donald Rumsfeld called "unknown unknowns"—was lost. And as the trader-turned-author Nassim Nicholas Taleb has argued, the delusion that risks can be managed often creates far greater volatility and danger.

The consequences of misunderstanding risk reached well beyond those who chose to take the risks—or their computers. Wall Street, supported by a political culture that was in awe of it, effectively socialized its risks onto the public (which is why we are paying AIG's bonuses today) while privatizing the rewards. At the same time, for households, risks that had once been socialized—through what remained of the American social contract—were privatized, borne by struggling workers and their families.

The social and political mood of the last 30 years was to embrace these trends rather than provide a countervailing force to reduce risk and increase security. Families shifted, usually involuntarily, from defined benefit pensions to vulnerable 401(k)s, from savings accounts to investments in individual stocks, and from secure health care to medical-savings accounts or no health insurance at all. Corporations, caught up in former General Electric CEO Jack Welch's doctrine that the corporation's primary obligation was to deliver ever-increasing returns to shareholders, steadily got deeper into debt while stripping away every cost that could not be directly related to short-term profit. In March, Welch renounced the business philosophy for which he is best known, calling it "insane." (The 30-year lifespan of the Welch doctrine coincides neatly with the years of conservative dominance of government, from Ronald Reagan to Barack Obama.)

A central mission of government is to manage risk and uncertainty, whether it is societal risk, such as war, or individual risks, such as unemployment or disability, which will befall only some of us and which can be accommodated only by spreading the costs broadly. Individuals not only can't manage to prepare for such risks but much research suggests that we are congenitally unable to think clearly about them. At its best, the U.S. government has helped Americans take risks that allow them to make the most of their talents (such as through student loans or the Federal Housing Administration) and avoid or insure against other risks. But during the Bush years in particular, government manipulated our perception of risk. It exaggerated some risks, as in Vice President Dick Cheney's "One Percent Doctrine," which held that if there were a minuscule chance of a terrorist attack—the ultimate uncertainty—we should act as if it were certain, at the expense of the Constitution and much else. And it dismissed other risks, promising an "ownership society" that would encourage households to take on even more of the risk of overpriced stocks and housing.

The resounding rejection in 2005 of a plan to convert part of Social Security to a system of private accounts was the beginning of a recognition that security and social insurance are not stale, outdated concepts but essential to providing the platform from which individuals are able to take the kinds of chances that lead to real opportunity and economic growth, not just asset bubbles. The collapse of the housing market, stock market, and much of the overgrown apparatus of Wall Street, together with the advent of a new political order that takes the middle class seriously, marks the end of that long era of irresponsibility.

But what comes next? We are starting from scratch. How can we rebuild a financial structure and a society in which we think more sensibly and constructively about risk and uncertainty, without the comfort of equations and markets? How do we rebuild government's role in protecting us from risk, a role it once served so well?

We need a new social contract, one not limited to regulation of financial markets, but one that reaches from Wall Street right down to the kitchen table, putting limits on systemic risks at the top, while providing a platform of security that allows individuals to take some chances—the kind of productive risks that will actually help them get ahead, like going back to school or starting a small business. At the top, managing risk requires more than markets; it requires institutions that can make choices and bear the consequences of the risk. The creation of endless markets for risk, fueled by the prices set by the equations, made revolutionary economic advancements possible. But it also made it possible to continually shift a dangerous risk around from one sucker to another.

We should know by now that social insurance remains a vitally important concept. No unregulated market and no basket of stocks can provide the kind of security against real uncertainty—the risks that we can never really know about—that a robust social contract, built on the idea of social solidarity, can. All aspects of the social contract are frayed and need updating, from unemployment insurance to Social Security, and new forms of security, such as paid family leave, are needed to give workers the ability to take their own chances and make the most of their talents in the economy.

And we should recognize that sometimes a little inefficiency is a good thing. Redundant systems provide a kind of security, and corporations stripped down to the bare bones in the quest for profitability carry untold risks. The financial crisis is a reminder that, in the name of efficiency, we can construct systems in which the institutions are so intertwined that the collapse of one brings down all of them. The Glass-Steagall law that separated commercial banks from investment banks, which was repealed in the 1990s, had the effect, although it wasn't its main purpose, of keeping banks smaller and putting some firewalls between different parts of their operations. A minuscule tax on financial transactions, sometimes called a Tobin Tax after the Yale economist who first proposed it, would have the beneficial effect of putting a little sand in the gears of transactions, deterring some of the colossal risks that banks were able to construct by piling one cheap transaction on another, and shifting them continuously through the market rather than making money the old-fashioned way, making loans and holding them.

Risk is not going away, but the genius of democratic capitalism is that we are able to build institutions that enable us to manage risk together, taking advantage of some risks while protecting both individuals and the system as a whole from the worst consequences. For at least 30 years, we have been transfixed by the idea that the market, with the help of some clever math, could practically do this alone. That idea has collapsed as quickly as the financial house of cards it supported.

THE CREATION OF ENDLESS MARKETS FOR RISK MADE IT POSSIBLE TO CONTINUALLY SHIFT A DANGEROUS RISK AROUND FROM ONE SUCKER TO ANOTHER.

Now we start with a blank slate. It's time to consider not just what happened during the era of risk and how we got into this mess but some alternative ways of thinking about risk. In the articles that follow, five academics, journalists, and financial practitioners (and some who have crossed those lines) point out the paths toward a new way of thinking about risk. For them, it's not just a matter of fixing the equations but of restoring government's role in protecting us from risk, of changing incentives at all levels to prevent the powerful from shifting the consequences of their risk-taking onto the rest of us, and of bringing risk down to earth by restoring a connection to local circumstances and community. Above all, though, they understand that risk, in the sense of taking chances, is essential to our continued prosperity but that only by managing risk well, both by regulation and by providing a platform of security for individuals and families, can we achieve its benefits for all without repeating the gut-wrenching economic disaster that we're living through today. TAP

1 Private Risk Is the Public's Business

BY DAVID MOSS

With financial alarm bells sounding, most of the nation—including the country's business and political leadership—has woken up to a forgotten truth: Government plays a vital role in managing risk. Since the start of the economic crisis, federal officials from both the Bush and Obama administrations have gone to extraordinary lengths to contain a mounting systemic threat, committing in excess of $10 trillion for ad-hoc financial rescues, emergency federal guarantees, and fiscal stimulus. Inaction in the face of a calamity of this magnitude would have been unimaginable, not to mention politically suicidal.

There has naturally been a great deal of debate about whether these policies will, in fact, revive the economy. But it's equally important to ask what comes next, once the alarm bells stop ringing. When economic growth eventually resumes and life returns to normal, will we be lulled back to sleep by the same soothing rhetoric of financial deregulation and risk privatization that helped get us into this mess in the first place? If so, the repercussions could be even more severe.

Risk has never been an entirely private affair in America. From the earliest days of the republic, government at all levels has actively intervened to regulate and reallocate risk. Congress passed the nation's first bankruptcy law as early as 1800 (in response to a sharp economic downturn), and New York state lawmakers enacted the first statute allowing general limited-liability incorporation in 1811. Nearly 200 years later, after the adoption of risk-management policies ranging from workers' compensation and Social Security to deposit insurance and federal disaster relief, we now devote more public resources to managing economic risk than to any other task, including national defense.

For those who doubt the value of such policies, just try to imagine what the world was like without them: the reality of debt servitude for failed entrepreneurs before bankruptcy law; the paucity of passive investment before limited liability; the scourge of recurring bank panics before the Federal Deposit Insurance Corporation (FDIC); the pervasive fear of destitution in old age before Social Security; the countless consumer injuries (including thousands each year from exploding soda bottles!) before the advent of modern product liability law and product-safety regulation.

Yet by the 1980s and 1990s, many of the benefits of these policies were increasingly taken for granted, and it became fashionable to highlight the costs instead. Critics mocked the creation of a "risk-free society" and a "nanny state." Indeed, such views complemented the market fundamentalism that was similarly in vogue at the time. Before long, the conventional wisdom in Washington was that risk ought to be left almost entirely to the private sector. Bailouts and guarantees of all kinds were to be avoided, Social Security privatized, liability law scaled back, bankruptcy tightened, Glass-Steagall repealed, and so on. Meanwhile, as new risks emerged, including those associated with sub-prime lending and securitization, many of our political leaders were apparently too busy trying to reduce the government's risk-management footprint—and too seduced by the logic of laissez-faire—to pay attention.

The problem with the risk-privatization approach, which took Washington by storm, is not just that it overlooked the remarkable success of many of the policies it sought to dismantle. It also ignored the new politics of risk in America that made do-nothingism an impossibility—and worse, a dangerous charade.

FROM THE EARLIEST DAYS OF THE REPUBLIC, GOVERNMENT AT ALL LEVELS HAS ACTIVELY INTERVENED TO REGULATE AND REALLOCATE RISK.

In 1887, after Congress passed a bill to assist the victims of a severe drought in Texas, President Grover Cleveland vetoed the measure, declaring, "I do not believe that the power and duty of the General Government ought to be extended to the relief of individual suffering. ... Though the people support the Government, the Government should not support the people." Such a statement would be unimaginable from a president today. Over the course of the 20th century, most Americans came to expect that the government would help pick up the pieces in the aftermath of disaster, and massive federal relief in the wake of catastrophes (both natural and manmade) soon became a foregone conclusion.

Critics of disaster-relief programs and other forms of public risk management regularly raise the specter of moral hazard—that individuals and firms will engage in riskier behavior when insured against major hazards. Unfortunately, the pretense of laissez-faire in good times, combined with the inevitability of aggressive government action in bad times, makes the moral hazard far worse, not better.

Although we still have much to learn about how the government should (and should not) manage risk, one lesson from the historical record is already apparent: Most of the best risk-management policies—from limited-liability law to the creation of the FDIC—have built-in mechanisms for monitoring and controlling moral hazard. In the case of limited liability, which shifts risk from shareholders to creditors, the creditors themselves have a powerful incentive to monitor the corporations to which they lend. In the case of the FDIC, bank regulation is an essential complement to bank insurance, providing the sort of risk monitoring and oversight that, in an ideal world (and in the absence of federal insurance), depositors might have provided themselves.

In fact, it was precisely by deregulating the savings and loan associations while increasing their insurance coverage in the early 1980s that lawmakers essentially guaranteed the subsequent S&L disaster. Today, we risk making a similar but much larger mistake with respect to the broader financial sector—effectively offering insurance (through the Treasury, the Federal Reserve, and other federal agencies) without accompanying regulation to manage the moral hazard.

As a starting point, proper regulation would include stringent capital and liquidity requirements for all systemically significant ("too big to fail") financial institutions, reasonable restrictions on these institutions' overall leverage and contingent liabilities, and a new FDIC-style receivership process for these very same institutions to facilitate liquidation or restructuring, rather than unending federal infusions, when they are on the verge of failure. Some sort of federal capital-insurance program, where both premiums and potential payouts are well defined in advance, might also be required.

Particularly now that the government is viewed almost universally as an insurer of last resort in tough times, it's the height of irresponsibility to pretend (contrary to the nation's own historical experience) that we should leave risk solely to the market in good times. We've received our wake-up call. The challenge now is to remain alert, even after the current crisis passes and the familiar soporific rhetoric returns. TAP

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2 Risk Is Best Managed From the Bottom Up

BY NOMI PRINS

Federal Reserve Chair Ben Bernanke stated the obvious during his March 10 speech at the Council on Foreign Relations in Washington: The global financial system contains too much risk and too little regulation. As the central figure in a multitrillion-dollar bailout exercise that has done little to contain, let alone reverse, the current economic crisis, Bernanke then strained to make some risk-fighting suggestions for future stabilization.

First, he recommended regulating "the financial system as a whole ... not just its individual components." Second, he warned that classifying any firm as "too big to fail" only "encourages excessive risk-taking by the firm." Third, he stressed the need to help credit flow by adopting "new policies to limit the incidence and impact of systemic risk." All of these are efforts to contain risk from the top and to spot big bubbles before they get out of control. The problem is that they overlook all the layers of risk created from the bottom, before they are visible in the financial system as a whole. We don't just need to prevent big problems at the top. We need regulations to address risk in every layer of the system, from the loan or bond, to the bank, to the very structure of the global financial industry.

At the bottom of the risk pyramid lie the mortgage loans. Financial models select and package them into new securities according to criteria such as diversity of geography, size of loans, and length of mortgages in years. Standard securitization models make numerous assumptions before repackaging a bunch of loans into an asset-backed security. These include the likelihood that a certain number of loans will default or be delinquent with payments. The results the models spit out are only as good as the information put into them. In the case of the mortgage crisis, the input relied too heavily on recent history, of which there was little for sub-prime loans. This introduced a risk that wasn't taken into account.

Meanwhile, under pressure from investment banks and their investors, lenders pushed loans onto borrowers. Even when loans deteriorated and delinquencies rose, demand persisted, which caused lenders to make even riskier loans. From pension funds to university endowments to Icelandic municipalities, institutions everywhere relied on high-grade securities manufactured from the base of low-quality U.S. mortgages.

Even if the models had detected possible losses better, things still would have gotten ugly because the market obsessively reused, or leveraged, these loans in multiple ways. One was the layering within the securitization market. You could have one asset or mortgage-backed security dependent on a certain bunch of sub-prime loans. But parts of that security could be repackaged into a whole new security. Then two securities were related to the same underlying loans.

These asset-backed securities, or collateralized debt obligations (packages of asset-backed securities known as CDOs), could be used as collateral to purchase and package new bunches of sub-prime loans or to simply borrow money for other endeavors. There is no market limit on the number of times loans or

asset-backed securities or CDOs can be repackaged. And each time a repackaging occurs, it introduces more risk and leverage (since a widening swath of securities or subsequent borrowing is dependent on the same loans) into the system. This borrowing, or leverage, acts like a magnifying glass for risk.

To make matters systemically worse, different institutions are allowed to take on different amounts of leverage. The Securities and Exchange Commission had set a net capital rule in 1975 that required broker-dealers (or investment banks which ran broker-dealers) to limit their debt-to-net capital ratio to 12 to 1. In other words, they couldn't borrow more than $12 worth of debt for every dollar of real capital, or equity, they held. In 2000, former Treasury Secretary Henry Paulson, in his capacity as chief executive officer of Goldman Sachs, began the fight to change that rule. Four years later, he testified against it before the Senate Banking Committee. Finally, on April 28, 2004, investment banks like Lehman Brothers, Bear Stearns, and Goldman Sachs got the SEC to increase their 12-to-1 leverage to a whopping 30 to 1. Final approval to lift the rule was unanimous and took 55 minutes. At one time, Merrill Lynch's assets were leveraged 40 to 1. Hedge and private-equity funds didn't even have official leverage rules. To this day, there is no official compilation of their global or domestic leverage.

Leverage increases the likelihood of a bank entering the "too big to fail" category, since it expands a bank's borrowing capacity and hence, the amount of debt it holds. Plus, as banks become bigger, it's more difficult to detect all the pockets in which risk can gather. Case in point: Bank of America was allowed to acquire Merrill Lynch. The acquisition rendered the institution bigger, more leveraged, less transparent, and riskier. The size—and the convoluted balance sheet that comes with it—makes the possibility of seeing risk, let alone containing it, that much harder. Smaller, simpler banks, are easier to monitor and cheaper to save.

CONSUMERS DIDN'T THINK THEIR DEPOSITS WERE GOING TO BE USED TO CREATE OTHER, MASSIVELY RISKY TRANSACTIONS THAT BANKS TOOK ON.

In his March 10 speech, Bernanke suggested establishing better regulatory oversight for institutions deemed too big to fail. What he should have demanded is that they not be allowed to get too big to fail, which, along with restrictions on risky practices for commercial banks, was the intent of the Glass-Steagall Act of 1933, which was slaughtered in 1999. Instead, mergers were encouraged at every step—with dire consequences for the nation's biggest banks. Citigroup is in critical condition. The Bank of America and Merrill Lynch merger was a train wreck. The merger of Wachovia and Wells Fargo bled losses. The bargain merger of JP Morgan Chase, Washington Mutual, and Bear Stearns only did a bit better because of government backing.

Multilayered risk has reverberated throughout the financial system with catastrophic results. Whether he explicitly said it or not, Bernanke knew things had gone massively wrong and that the banking system took on more debt than it is able repay. And so the risk-holders of last resort became the federal government, the taxpayers, and international governments.

There are remedies to the problem. But for those remedies to be fully effective, risk must be mitigated at every point from the loan level to the leverage amount to the size and complexity of each institution.

Loans must be better regulated. Lenders should be subject to greater restrictions and transparency on hidden costs and loan complexity and not push loans that borrowers are ill-equipped to understand or repay. Multiple loans should be capped. Lenders should not be allowed to keep preying on the same borrower to take out multiple loans on their only collateral, their home.

The leverage within each security should be restricted by increasing the real assets and limiting the number of repackagings—no more CDOs of CDOs. By spreading the loans so thin, any small failure has a greater impact on a higher pyramid. Plus, multiple repackaging renders each new security less transparent, which makes it harder for regulators to keep tabs on it. The net capital rule should be 8 to 1 for every financial firm that operates in the global market—with no exceptions and no loopholes. The system shouldn't be allowed to leverage itself beyond its capacity to absorb the risk, requiring the government to step in and be the safety net. Financial firms should be required to build their own better safety nets. And all transactions should be on the books. More leverage should not be created in such a way as to obscure capital rules and hide the true nature of institutions' debt.

Last, the riskier components of banking should be separated from the consumer oriented, deposit-loan components. The government has a responsibility to back consumer deposits, because those consumers didn't think their deposits were going to be used to create the other, massively risky transactions that banks took on. These riskier elements should be allowed to fail; otherwise, "super regulators" will continue to have a tough time keeping up with Wall Street and its risk-creating prowess.

Alas, Treasury Secretary Timothy Geithner seems to be maintaining Bernanke's top-down approach to fixing the financial system. When Geithner unveiled his plan for economic stability in late March, he echoed the need for a stronger regulator rather than a banking system that is easier to regulate. This was supposedly a remedy to the idea that "the bigger they are, the harder they fall." But in fact, more careful logic holds that if financial institutions don't get so big, they won't fall so hard. In other words, Geithner failed to grasp that we can contain risk by reducing the possibility of its growth, not by watching it more carefully afterward.

In 1933, Franklin D. Roosevelt understood that the creation of the regulatory agencies, the Securities and Exchange Commission and the Federal Deposit Insurance Corporation, worked because the Glass-Steagall Act rendered the banking arena into smaller, clearer components that were easier to regulate. The current banking crisis screams for a similar approach, one that is focused not on strengthening big regulators at the top but on addressing every level of the system to make banks easier to regulate. **TAP**

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3 The Rich and Powerful Can Avoid Risk

BY ROBERT A. JOHNSON

Recent discussions of the malfunction of Wall Street have centered on the role of statistical models that failed to accurately account for all possible outcomes. These less likely results, known as "tail risks," were underestimated by the models. Now the "quants" on Wall Street and academia have a new research agenda, which is to figure out how to fix those models.

Telling the story in this way has a risk of its own. Focusing on inanimate abstractions and numbers diverts attention from the human conflicts and follies embodied in our current catastrophe. The challenges related to the distribution and management of risk are much more formidable than a technical fix because they are not technical problems. Managing and balancing risk in the future is an organic human problem, a political problem, and a problem of power. The question is how to remedy the fact that some players have the power to shift risks and to use the political process for insurance, while others do not.

Risk is inherent in the world. Natural disasters, wars, famines, floods, as well as the business cycle and disruptive innovations all introduce risk into life. A properly functioning capital market, working together with government, serves to diversify and distribute that risk to those who can bear it. Social institutions are set up for collective support for the aged and weak and those who fall prey to natural disaster. We've forgotten that in recent years, when society was caught up in the urge to be "entrepreneurial" and to show a hearty appetite for risk. Declaring oneself a "risk taker" was a badge of honor.

We undermined the public institutions constructed to bear risk and insulate citizens from the worst consequences. Healthcare policy treated patients as empowered consumers, ignoring their fundamental vulnerability. (Most people heading to the emergency room are not focused on comparison shopping among providers.) Congress cut back on bankruptcy protections for individuals. At the same time, unemployment insurance, welfare, and other aspects of the social contract were charged with creating a disincentive to work. When it came to institutions that protect individuals, concerns about moral hazard were rampant in the economics departments throughout the land. To be sheltered from risk was to be weak or corrupt.

Unfortunately, all this concern about perverse incentives of the weak and unfortunate was not applied in the world of finance. Free-market fundamentalism dominated academic and political debates. Regulations and restraints on the behavior of financial institutions and investors were seen as inefficiencies and unnecessary constraints, getting in the way of greater and greater financial efficiency.

In these elaborate intellectual portrayals of the financial marketplace, little attention was paid to the well-known fact that if a financial crisis were to emerge, officials would step in

to truncate the risk of the downside in the name of containing "systemic" consequences. Systemic consequences mean spillovers from the financial sector to the real economy. In this case, just as drivers in an era of cheap gasoline don't worry about the costs of climate change, private participants in the financial system were not pricing the societal consequences of the risks they were taking.

It is important to note that the problems of financial excess introduced risks into society that need not be present. Factors such as excessive leverage, balance sheet complexity, and executive incentives that encouraged risky behavior fostered a system that did great and unnecessary harm. The financial sector did not merely transfer risk onto the taxpayers. It greatly amplified the risk, and took out large bonuses, before handing the bill to the victims across the national and world economic landscape. It is tragic that at the same time we subjected many to the sharp edge of unavoidable risks by weakening social protections, we fanned the flames of risk amplification by the powerful, using the promise of public money to give them a sense of invulnerability.

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Previous events enabled market participants to know that the downside of their risks would be limited. The Mexican bailout of 1994–1995, the Asian Crisis of 1997, the Greenspan rate cuts in 1987 and 2000–2001, were all examples. In each case, putting out the immediate fire was imperative. But as time passed each "success" pumped more confidence into the financial balloon.

The underwriting of downside protection, which has been called the "Greenspan Put," owing to former Federal Reserve Chair Alan Greenspan's willingness to cut interest rates and provide assistance to the financial sector, was accompanied by the fierce campaign to unshackle market participants via deregulation. Economists selling expertise were rewarded by patrons who were making money, and together they convinced our money-hungry political representatives that they were doing good for society by accepting campaign contributions to remove constraints on finance. A fawning media offered little resistance.

Then suddenly, it all came to a crashing halt. Now we are in the middle of a process of de-leveraging, a system-wide reduction of risk on the balance sheets of financial institutions. The government, in order to mitigate the excesses of the highly leveraged, poorly managed, exceedingly complex financial sector, has itself become highly leveraged. It has created its own intricate structures, all devoted to keeping intact the very large "too big to resolve" institutions that are responsible for the crisis.

What we have seen so far is not a new approach to risk but risk transfer. Risk is being transferred from the balance sheets of financial firms to the public, by elected representatives from both parties. Think of lobbying and campaign finance as an insurance policy for finance. For a small premium, the financial firms bought the right to offload their losses after they occurred.

Even after the crash, the human dimensions of risk and the incentives to take it on are unchanged. Each of the big financial firms has the incentive to shift risks by selling assets to raise capital before the other goliaths do. Each has the incentive to scurry to the back of the bus and make sure that other firms get "resolved" before they do. If Citigroup were resolved, then everyone else's balance sheet would be stronger. The American International Group bailout turned out to be a conduit for strengthening the firms with which AIG was intertwined.

Although the crisis is systemic, an equally comprehensive resolution may prove impossible. The firms that were strongest politically, notably Goldman Sachs and JP Morgan, were betting that the others would be brought in and restructured first. As this tug of war played itself out, the size of the crisis and the damage to the economy deepened. This dysfunction did not merely transfer the hot potato of risk from one firm to another; the delay in comprehensive resolution actually increased the amount of risk society was forced to bear—the potato got bigger and hotter.

Only the most powerful and wealthy can afford to play this game of risk transfer. The Consumer Education Foundation, in a recent report titled "Sold Out: How Wall Street and Washington Betrayed America" estimates that U.S. financial, insurance, and real-estate firms paid about $5 billion in combined lobbying and campaign contributions over the last decade. They will likely offload nearly $2 trillion in losses onto the taxpayers, so their political investments have paid off at nearly 400 to 1. Goldman Sachs alone recovered its estimated $47 million dollars of influence-buying in one fell swoop with the over $12 billion dollars of transfers reported in the AIG bailout. Even if half of that were justified recovery, the return on their political investments was more than 13,000 percent!

In the future, how can we reduce the incentives and the ability to shift risk, first onto other firms and then to the public? The public good of trust has been badly shattered by the brazen demonstration of power in this episode, and while government has grown, our capacity to believe that government can address and solve social problems, once inspired by the actions of Franklin D. Roosevelt and then denigrated from Ronald Reagan to the present, may be diminished.

It is possible that the current financial and economic crisis will be viewed, in the hindsight of history, as an outlier, a tail risk in itself. But to prevent similar crises in the future, we have to think of risk not as a problem of faulty math but a problem of power. The solutions will not be found in academic finance but in reforms to campaign finance, lobbying, and tax law that create a government that can stand up to the natural human inclination to take on risks and then pass them on to others. TAP

4

Housing is Local, and Lending Should Be, Too

BY ALYSSA KATZ

History will recall 2005 as the year the credit bubble grew fattest—when in much of Florida and California, real-estate prices doubled in a matter of months. But in Cuyahoga County, Ohio, it was the year that nearly 12,000 homes were abandoned to foreclosure, leaving streets littered with boarded-up houses. Many of the home sales turned out to have been between speculators selling property to one another at rigged prices, using phony paperwork. Other borrowers fell prey to sub-prime refinancing that put cash in their hands but lost them their home.

At the time, Cleveland's calamity was a nonevent outside of Ohio, because the projected losses fit within the margins of investment bankers' risk models. Securities analysts wrote off the Ohio foreclosure wave as the byproduct of a declining Rust Belt economy, notwithstanding that the unemployment rate in Cleveland had been twice as high in the early 1980s. Nationwide, the foreclosure rate still stood at less than 1 percent, about as low as it had ever been.

Of course, Ohio was a harbinger of the dismal fate of the rest of the nation. So why were Wall Street analysts so blind?

Perhaps it's that they literally could not see the destruction their funds had wrought—they were, after all, hundreds of miles away and dependent on a few points of outdated, deeply unreliable data. And even if those who packaged, repackaged, sold, or rated mortgage-backed securities had witnessed the men carting off aluminum siding or the teenagers using windows of abandoned homes for target practice, they could still avoid the consequences of the risk.

In a world in which capital can instantaneously leap just about anywhere, we're now learning the hard way just how dangerous it is that the sources of finance that sustain homeowners and their neighborhoods have no meaningful connection to those people and places. This is a hazard that now looms much larger than the mortgage market. The supplanting of local economies with global ones, no matter the product, amplifies whatever risks already exist.

This challenge has already been painfully clear in the business of growing and processing food, in which a rogue peanut-processing plant in Georgia infects supermarket shelves nationwide and effluvia from factory farms poisons communities far from where the pork or poultry will be consumed. The sustainable-food movement has a word for its response: "locavore," a person who consumes food that is grown or processed nearby. Locavores do much more than limit the fuel consumption and climate impacts that ensue when tons of food get hauled all over the planet. They also seek to create a sustainable and safe system that ties producers and consumers together in a mutually beneficial ecological and economic pact.

The current machinery of mortgage making not only fails to encourage local connections between creditor and debtor, financial institution and community; by design it prevents such links. Investment banks are shielded from legal liability for harmful acts committed by the lenders whose mortgages they bought. They're further armored by the terms of the securities pools they helped assemble, which command lenders to buy back any loans whose underwriting turned out not to be up to the pools' declared standards.

Yet more than a legal and financial construct, evasion of responsibility looms as a social, political, and moral reality. Those who created and traded in the securities trusts were not players with any stake in the communities in which these loans were made. They could not be subject to boycotts, or concerned about status as a good corporate citizen, or care about what the local paper or blogger might write, or even harbor fond memories of a neighborhood's high school football team. Indeed, the mortgage-backed-securities pools themselves existed only as creatures of the law, without a single identifiable face or place of business. In business jargon, they lacked "reputational risk."

Real estate is unlike any other commodity, because its value is tied to its relationship to the community in which it sits. Until the last three decades, the financial institutions that funded the majority of home mortgages had deep connections to the places where they operated. They were savings and loan institutions, which before they turned into capital-pillaging machines in the Reagan revolution were descendants of a 19th-century financial self-help movement. S&Ls funded mortgages out of their cash deposits, and when they had more demand for loans than their deposits could sustain, they turned to Fannie Mae (starting in the 1970s, Freddie Mac) and sold them the loans.

WE'RE NOW LEARNING JUST HOW DANGEROUS IT IS THAT THE SOURCES OF FINANCE FOR HOMEOWNERS AND THEIR NEIGHBORHOODS HAVE NO REAL CONNECTION TO THOSE PEOPLE AND PLACES.

S&Ls' reign at the heart of the home-finance business had enormous and ultimately fatal downsides. S&Ls were egregious practitioners of "redlining," the denial of credit even to low-risk borrowers if they were perceived to live in a blighted area. (Here, the S&Ls' intimate local knowledge was unhelpful, since underwriters were susceptible to negative views of "bad" neighborhoods, driven by race and class biases.) Then, by the late 1970s, the Fed's moves to rein in inflation provoked a mini credit crisis, as high interest rates depleted S&Ls' capital.

The mortgage-backed-securities market was engineered to supplant this constrained local economy with a free global one. It was born in a collaboration between investment bankers, economic advisers to President Ronald Reagan, and Congress. They set out to channel as much investment capital as possible into the financing of real estate. In doing so, they divorced the money behind housing from the places where the real estate sits—for better in the short term but ultimately, for worse.

Alyssa Katz is the author of Our Lot: How Real Estate Came to Own Us *and a consultant with the Pratt Center for Community Development.*

This isn't the first time that this basic model—generate capital in the markets, then funnel it to borrowers via street-corner mortgage brokers—has led to disastrous results. Beginning in 1970, the government-owned corporation Ginnie Mae began creating securities out of Federal Housing Administration–insured mortgages and selling them to investors. Just like sub-prime mortgages, these loans were frequently sold by predatory brokers who descended on poor urban neighborhoods, set up cash-extraction schemes, and left in their wake tens of thousands of abandoned houses. Some cities, like Detroit, were permanently scarred.

The Community Reinvestment Act of 1977 grew out of neighborhood activists' efforts to fight the twin devils of redlining and destructive FHA lending and to obligate financial institutions to "meet the credit needs of the local communities in which they are chartered." But the Wall Street mortgage-securities market emerged outside of CRA's domain. That market's colossal failure opens up a precious opportunity to combine the best of both worlds—the global reach of the capital markets with local stewardship and scrutiny.

Some advocates are now looking to extend CRA to cover a much wider range of financial activity, making it possible for community leaders to push back against patterns of discrimination in lending practices. The resurgent role of Fannie Mae, Freddie Mac, and Ginnie Mae at the heart of the mortgage-securities market opens an opportunity for those agencies to build local responsibility right into the transactions, through qualification standards for lenders seeking to have their mortgages purchased by the pools, and penalties for irresponsible behavior by lenders' sales agents. Philanthropist George Soros and others have proposed adopting a Danish-style system in which bondholders and homeowners share identical risks. That holds promise, but one way to enforce it is to require that the bond be held by a local issuing institution, which, as a civic body, has a special stake in making sure that a loan performs and brings value to borrower and community alike.

Such civic banks already exist—they're community-development financial institutions, or CDFIs, chartered by the Department of the Treasury to serve neighborhoods and borrowers whose financing needs aren't adequately met by conventional banks. It is these lower-income borrowers who ended up turning in droves to sub-prime loans and their neighborhoods that have been the most devastated. CDFIs were powerless to compete with the flood of Wall Street–sponsored sub-prime products and the mortgage brokers hustling to sell them, but now that the mortgage-finance system is largely run by Washington, not Wall Street, CDFIs—which include credit unions and community banks—can play an essential role as a partner to Fannie Mae and other government-administered mortgage-finance agencies charged with keeping mortgage funds flowing to borrowers.

Lenders that wish to sell relatively high-risk mortgages to Fannie Mae or Freddie Mac could be required to first sell the loan or a stake in it to a CDFI. That idea has already been put to the test in a successful and carefully studied experiment. Beginning a decade ago, the Center for Community Self-Help, a CDFI in Durham, North Carolina, collaborated with Fannie Mae and the Ford Foundation to buy from other financial institutions $2 billion in mortgages for high-risk, predominantly low-income homebuyers, about one-third of them from North Carolina, and then made sure those loans performed through careful underwriting standards and follow-up counseling in the event borrowers ran into trouble (only a relatively small number failed, usually because they elected to refinance with cash-back mortgages from other lenders).

Self-Help's national model can work just as well on a local or regional level. It's time for "locavore" to be a principle that applies not just to the production and consumption of apples and milk but also to the financial system by which communities live or die. TAP

5 A Strong Safety Net Encourages Healthy Risk-Taking

BY JACOB S. HACKER

Remember the "ownership society"? Just an election cycle ago, conservatives were urging Americans to give up their antiquated social-insurance programs—Social Security, Medicare, unemployment insurance—in favor of tax-subsidized individual accounts that would vest responsibility for dealing with economic risk in workers and their families. Thankfully, the most extreme elements of that agenda failed, and the vision behind it (of responsive financial markets capable of managing risk with limited government oversight, and the private sector providing inclusive, progressive protections with minimal public prodding) is now discredited.

Yet while the ownership society was a practical and intellectual failure, it was more of a political success than commentators generally acknowledge. Even before the financial crisis, the broad set of economic protections that arose in the Great Depression and expanded in the decades after—sometimes called the "safety net," though in truth the net was never understood to be the bare minimum that the term implies—lay in tatters. Over the last generation, our economy and society have dramatically changed, creating new risks and intensifying old ones. But our public-private framework of economic security has decayed, leaving advocates of the existing policies increasingly defending a Potemkin village of hobbled and out-of-date protections.

If ever there were a time for an alternative to the reigning orthodoxies of risk management, this is it. Now is the time to adopt a vision not of individuals managing economic uncertainties on their own with limited government help but of all of us providing the common foundation for economic prosperity and advancement through smarter and broader *sharing* of risk. Yes, progressives must unlock financial markets and put them on a stronger basis. But our longer-term goal should be more fundamental: a new public-private partnership that builds upon and extends the basic underlying principle of the New Deal. That principle—even more true today than it was in the 1930s—is that security is not opposed to opportunity but essential to it. In a dynamic and flexible economy, well-designed policies of economic security are critical if workers are going to have the confidence they need to invest in and achieve the American dream.

Consider our failing health-care system, with its spiraling costs and cratering coverage. One in three people younger than 65 in the United States goes without health insurance at some point every two years, and even Americans who have health insurance are at risk of catastrophic costs that can drive them into bankruptcy. Our exorbitantly expensive system weighs down family finances, harms labor-market flexibility, and siphons off money that could be invested in enhanced productivity and skills. In the face of this crisis, calls for health savings accounts or greater personal responsibility fly in the face of the overwhelming evidence—from our own history and cross-national experience—that broader sharing of risk through publicly sponsored public and private insurance would not only head off countless preventable hardships but also slow the skyrocketing growth of health costs and improve our economy and long-term fiscal standing.

Health care is only the tip of a larger iceberg. In every facet of Americans' economic life—their health care, their pension plans, their job security, their family finances—risk and responsibility have shifted from the broad shoulders of government and corporations onto the fragile backs of workers and their families. In an era of partisan polarization and gridlock, we have failed to update our nation's safety net to reflect the changing economic and social realities of our nation. We still have strong benefits for the elderly, but we do very little to help the millions of young Americans struggling to gain a foothold in the job market or buy a home or start a business—the future of our economy and society. Our safety net emphasizes short-term exits from the work force, even though long-term job losses and the displacement and obsolescence of skills have become more common. And some of our social polices still embody the antiquated notions that family strains can be dealt with by a parent, usually a mother, who can easily leave the work force when there is a need for someone at home.

THE BASIC UNDERLYING PRINCIPLE OF THE NEW DEAL WAS THAT SECURITY IS NOT OPPOSED TO OPPORTUNITY BUT ESSENTIAL TO IT.

Above all, our safety net is based on the dying belief that job-based health and retirement benefits can easily fill the gaps left by public programs, when it is ever more clear that they cannot. We spend hundreds of billions of dollars subsidizing workplace benefits through the tax code so that employers can serve as mini-welfare states. But, of course, employers are less and less willing to take on these obligations, and less and less willing to provide broad protections on equal terms to their workers when they do. At one time we had guaranteed private pensions that looked much like Social Security; now we have 401(k) plans that place nearly all of the risk of retirement planning on workers. In effect, we have shifted from the traditional "three-legged stool" of Social Security, guaranteed private pensions, and private

savings to a wobbly two-legged stool of Social Security and private savings (inside and outside of 401(k)s). Once again, economic common sense and social justice both argue for moving away from our present mess toward the broader and more direct pooling of risk.

George W. Bush's ownership society was based on the belief that "financial innovation" would spread the rewards of economic growth to all Americans through better and broader access to financial assets. Yet the exact opposite has been true. As government and corporations have pulled back, the personal safety net has been fraying, too. There is no need to restate the familiar statistics: bankruptcy and home-mortgage foreclosures are up, savings are down, debt is up, and middle-class incomes have grown slowly in an era in which most of the rewards of economic growth have gone to the richest of Americans.

"Risk" may be the word on people's lips today, but most understand it far too narrowly. Risk does not simply concern the breakdown of our nation's financial institutions; it concerns the breakdown of our nation's social contract. If we are to fix that contract—and our economy—we will have to do more than socialize risk for those at the top of the economic ladder. We will need to reclaim the twin ideals of security and opportunity for all Americans. TAP

Jacob S. Hacker is a professor at University of California, Berkeley, and author of The Great Risk Shift: The New Economic Insecurity and the Decline of the American Dream.

STATES LEFT BEHIND

When Obama selected his Cabinet, he caused a fair bit of upheaval in his nominees' home states.

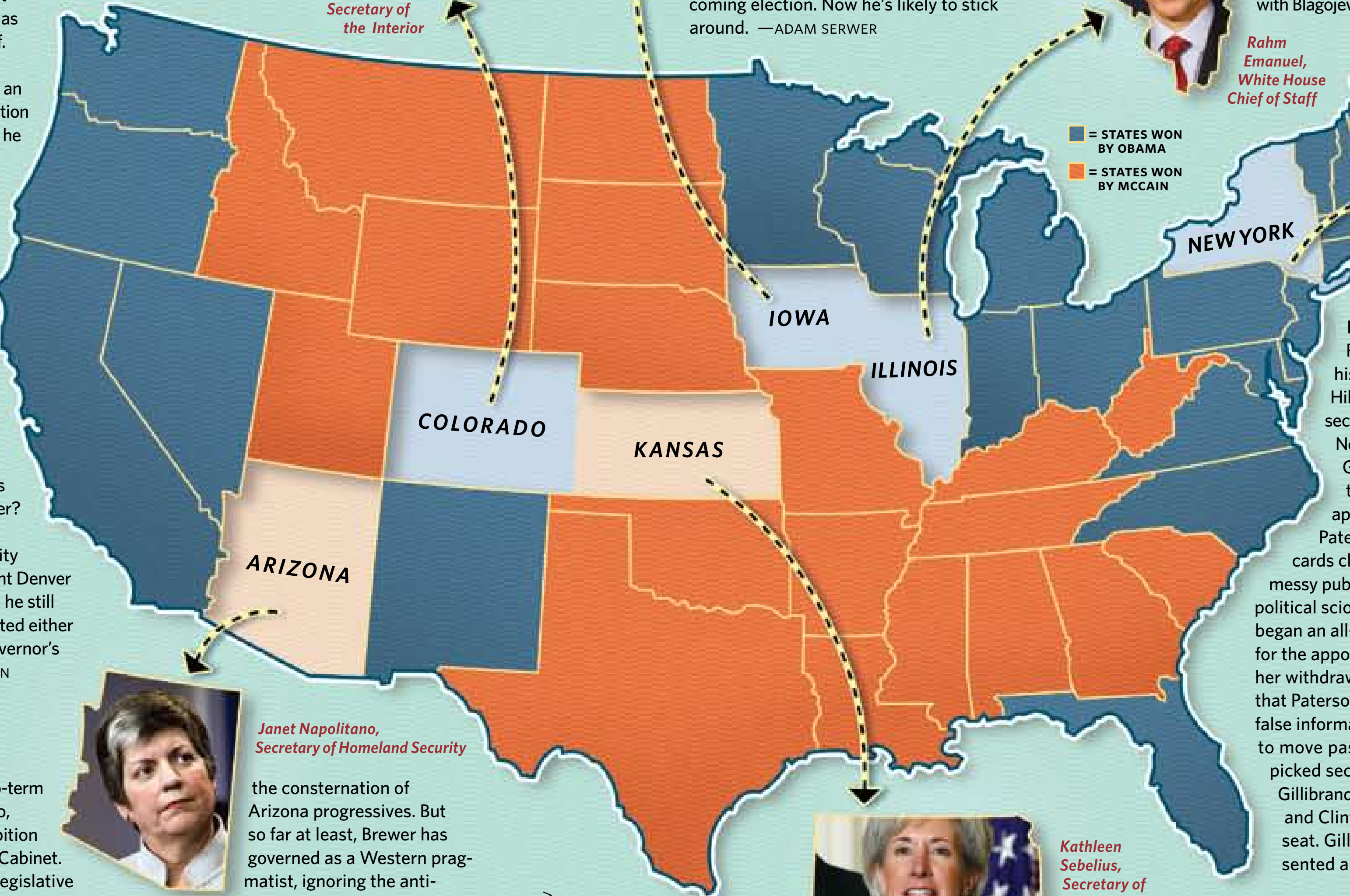
When, or if, the Republican Party and the conservative movement make their comeback, it will not be under the banner of Washington leaders such as House Minority Leader John Boehner or hapless party Chair Michael Steele. Rather, the comeback is most likely to begin in the states, where governors and other state-level leaders will rise out of the ashes of financial crisis with the appearance of success, free of the baggage of the Bush administration, congressional Republicans, Rush Limbaugh, and the other deeply unpopular symbols of failed conservatism. Governors like Jon Huntsman of Utah and Tim Pawlenty of Minnesota have already begun to emerge in this role.

President Barack Obama may have facilitated the comeback, unwittingly, by lifting some of the most popular and politically dominant Democrats out of their states and bringing them to Washington as part of his Cabinet. This has left the governorships in some states to Republicans; in other cases it has removed prominent Democrats who could challenge Republicans in the future. By bringing such a large number of experienced, successful politicians into the executive branch with him, Obama has at least loosened up the politics of several swing states, putting the Democratic Party on shakier footing and creating the space where the next Republican opposition could take root.

Obama's selection of certain Cabinet members has affected not only the politics in their home states but also the policy. In his effort to choose politicians who have a history of working in concert with Republicans, many of his nominees are from conservative-leaning states where they played a large role in negotiating more progressive policies on everything from taxes to reproductive health to education. In their absence, not just more conservative politicians but more conservative legislation is likely to result.

Here, we look at just a few of the states Obama's Cabinet members have left behind—and consider just how complicated the fallout could be. —THE EDITORS

MAP BY PETER AND MARIA HOEY



Ken Salazar, Secretary of the Interior

Tom Vilsack, Secretary of Agriculture

Rahm Emanuel, White House Chief of Staff

Hillary Clinton, Secretary of State

Janet Napolitano, Secretary of Homeland Security

Kathleen Sebelius, Secretary of Health and Human Services

TANNEN MAURY; DENNIS BRACK / LANDOV

TANNEN MAURY; JEFF HAYNES; BRIAN KERSEY; JIM YOUNG / LANDOV

COLORADO: After Obama appointed Ken Salazar to head the Department of the Interior, Colorado's Democratic governor, Bill Ritter, surprised many with his choice for Salazar's Senate replacement. In tapping the superintendent of Denver Public Schools, Michael Bennet, Ritter passed over Mayor John Hickenlooper of Denver, a jovial, ubiquitous presence during the Democratic Party's August convention in the city. Adding to the slight, Bennet, a former investment banker, had gotten his start as Hickenlooper's chief of staff. But insofar as the Obama administration has signaled an early commitment to education reform, Bennet is a good fit; he has been hailed by reformers nationwide for his willingness to shut down failing schools and his success in renegotiating Denver's trailblazing performance-pay plan for teachers, ProComp.

The Denver schools' new superintendent, Tom Boasberg, served as the system's chief operating officer under Bennet and is expected to continue his legacy. What's next for Mayor Hickenlooper? He continues to focus on environmental sustainability with his five-year Greenprint Denver plan, but observers believe he still has larger ambitions, directed either toward Congress or the governor's mansion. —DANA GOLDSTEIN

ARIZONA: The state's two-term governor, Janet Napolitano, made no secret of her ambition to join President Obama's Cabinet. Napolitano faced a bleak legislative climate at home as 2008 drew to a close: The GOP retained control of the state House and Senate, and Arizona faced a $3 billion budget deficit. Napolitano knew her ambitious plans for education and health care would be overshadowed by the economic crisis. And her signature ballot initiative, which entailed increasing the sales tax to fund new transportation infrastructure, was rejected for the ballot by Secretary of State Jan Brewer, a Republican.

When Napolitano became head of the Department of Homeland Security, her replacement was Jan Brewer herself, to the consternation of Arizona progressives. But so far at least, Brewer has governed as a Western pragmatist, ignoring the anti-immigrant elements that rule Arizona's right. Unlike some Republican governors, Brewer has been happy to accept federal stimulus funds and has even suggested raising taxes while limiting cuts to the education budget. Meanwhile, high-profile Arizona Democrats are queuing up for various runs in 2010; a likely gubernatorial candidate is Mayor Phil Gordon of Phoenix, known as a progressive on public transit and immigration. Also at stake could be John McCain's Senate seat, though the four-term incumbent has vowed to run again. —DANA GOLDSTEIN

IOWA: Former Gov. Tom Vilsack's appointment as secretary of agriculture has darkened the Iowa Democratic Party's prospects for picking up Sen. Chuck Grassley's seat in 2010—Vilsack was widely considered the only viable challenger. Despite Grassley's penchant for colorful language (he suggested American International Group executives were "sucking on the tit of the taxpayer" and should "resign or go commit suicide" because of their failure), he is beloved in the state, and Vilsack was the only potential challenger whose approval ratings even came close. Grassley is 75 years old and might have been convinced to retire if he were facing a strong challenger in the upcoming election. Now he's likely to stick around. —ADAM SERWER

ILLINOIS: Obama's home state lost two politicians to the White House—the president and his chief of staff, former Rep. Rahm Emanuel. Gov. Rod Blagojevich, charged with appointing Obama's replacement, couldn't quite rise up to his public-spirited best—he attempted, so it seems, to sell the vacant Senate seat to the highest bidder. Before his impeachment, Blagojevich appointed Roland Burris, a former state attorney general, to the Senate. But Burris soon managed to dredge up the scandal by offering differing accounts of his relationship with Blagojevich prior to his appointment, leading to resignations by his senior staff and investigations in Illinois and D.C.

Burris remains in his seat, but it's hard to imagine him keeping his post in 2010, which could create an opportunity for Republicans to snatch it. Blagojevich's replacement, former Lt. Gov. Patrick Quinn, may also face a tough re-election in 2010.

Meanwhile, the special election to replace Emanuel was likely settled in March's crowded Democratic primary. County Commissioner Mike Quigley took a plurality in the contest and is expected to win the seat handily in the general election on April 7 thanks to the D after his name. In Chicago, some things never change. —TIM FERNHOLZ

NEW YORK: When President Obama picked his primary rival, Sen. Hillary Clinton, to be secretary of state, he left New York, and particularly Gov. David Paterson, in the dreaded pickle of appointing a new senator. Paterson tried to play his cards close to his chest, but a messy public debate ensued after political scion Caroline Kennedy began an all-but-official campaign for the appointment, ending with her withdrawal and accusations that Paterson and his staff leaked false information about her. Trying to move past the fight, Paterson picked second-term Rep. Kirstin Gillibrand, an upstate politician and Clinton protégée, for the seat. Gillibrand, who represented a conservative district, was criticized for quick moves to the left after her sudden elevation to state-level office and could still face a primary challenge from a more liberal rival.

What of Gillibrand's old seat? The special election to replace her quickly became a referendum on the early days of the new administration, with Democrat Scott Murphy attacking Republican Jim Tedisco for failing to support the stimulus. Though early predictions favored Tedisco, the election ended in a virtual tie. Absentee ballots will decide the race. Meanwhile, Paterson's political stock has fallen—he is likely to face a primary challenge—and the Gillibrand appointment has opened something of a rift between liberal and moderate members of the normally clubby state Democratic Party. —TIM FERNHOLZ

KANSAS: As Gov. Kathleen Sebelius transitions into her position as secretary of health and human services, she leaves behind a power vacuum that could endanger pro-choice policies in Kansas. "She's the top pro-choice Democrat in the state," says Peter Brownlie, president of Planned Parenthood of Kansas and mid-Missouri.

"She has a lot of political capital, and someone like [Lt. Gov. Mark] Parkinson doesn't have as much," Brownlie says. "We've had a consistent pattern in this decade certainly, of anti-choice legislation being passed and being vetoed by Kathleen Sebelius." That veto power will still be there when Parkinson takes over for Sebelius. But with vigorously anti-choice Sen. Sam Brownback considering a gubernatorial run, a woman's right to choose might be in serious danger in Kansas. Democratic insiders in the state still insist, however, that they have a strong slate of candidates to challenge Brownback, although they declined to name names.

It seems Sebelius has already moved on. She recently signed one last bill, which requires physicians providing an abortion to offer to show an ultrasound to their patient, mandates that women considering abortion be informed of the locations of all the anti-abortion "pregnancy crisis centers" in the state, and forces abortion providers to place signs on the premises stating that it is illegal for significant others, spouses, or family members to force a woman to get an abortion. The bill is similar to one Sebelius vetoed last year. —ADAM SERWER

Progressivism Goes Mainstream

New research on ideology refutes the conservative myth that America is a "center right" nation.

BY JOHN HALPIN AND RUY TEIXEIRA

President Barack Obama's stimulus package, his joint address to Congress, and his 2010 budget have sent conservatives into fits of indignation over the supposed radicalism of the new president's agenda. Dusting off red-scare rhetoric from the early years of Franklin Roosevelt's presidency, Minority Leader John Boehner declared Obama's initiatives on energy, health care, and education to be "one big down payment on a new American socialist experiment." At the Conservative Political Action Conference held at the end of February, Sen. Jim DeMint of South Carolina implored the young activists to "take to the streets to stop America's slide into socialism." Former presidential candidate Mike Huckabee added, "The Union of Soviet Socialist Republics may be dead, but the Union of American Socialist Republics is being born!" *National Review*, taking a slightly more measured tone in confronting the specter of collectivist tyranny, asked historians and other academics, "Is Ayn Rand freshly relevant in the Age of Obama?"

How do we make sense of all this righteous anger? Are conservatives tapping into a deep-seated aversion to progressive government among the electorate? Hardly. Not unlike the characters in Rand's various fantasies of libertarian anarchy, conservatives today are living in an alternative universe. And the sooner they wake up to this reality the better off they will be.

The 2008 presidential election not only solidified partisan shifts to the Democratic Party, it also marked a significant transformation in the ideological and electoral landscape of America. In two major studies of American beliefs and demographic trends—the *State of American Political Ideology, 2009* and *New Progressive America*, both conducted by the Progressive Studies Program at the Center for American Progress—we found that the president's agenda reflects deep and growing consensus among the American public about the priorities and values that should guide our government and society. Not surprisingly, conservatives are the ones who are out of line with the values of most Americans.

THE RISE OF PROGRESSIVISM in America today is reflected most directly in public ratings of various ideological approaches. Today more than two-thirds of Americans rate a "progressive" approach to politics favorably, a 25-point increase in favorability over the last five years, with gains coming primarily from those who were previously unaware of the term. "Progressive" now equals "conservative" in terms of overall public favorability (67 percent, respectively). Both the "liberal" and "libertarian" labels enjoy much lower overall favorability, with only a plurality of Americans rating each positively. (As a side note, conservative elites might want to rethink their Ayn Rand obsession: a mere 35 percent of self-identified conservatives rate the term "libertarian" favorably, only 10-points higher than their rating of "liberal.")

Employing an innovative measurement of Americans' ideological self-identification, our study expanded the traditional liberal-moderate-conservative test with a five-point measure that more accurately reflects the dominant ideologies in politics today. Under this approach, roughly a third of Americans classify themselves as "progressive" or "liberal," a third are self-described "moderate" or "other," and just over a third label themselves "conservative" or "libertarian." After a follow-up question that pushes moderates to choose between the other ideological approaches, a roughly even left-right breakdown surfaces: 47 percent of Americans are "progressive" or "liberal" and 48 percent are "conservative" or "libertarian." The notion that we are a center-right nation is certainly exaggerated.

On a more substantive level, beyond ideological labels, we presented Americans with a series of 40 statements, split evenly between progressive and conservative ideas. Examining the results, it is clear that public acceptance of the Reagan-Bush model of conservatism—limited government, tax cuts, traditional values, and military strength—has given way to a broad and deep cross section of the American public now holding solidly progressive attitudes about government and society.

Nearly 80 percent of Americans agree that "government investments in education, infrastructure, and science are necessary to ensure America's long-term economic growth." Overall, the unanimity of opinion found on this issue is rare, showing that conservatives are out of step with the rest of the country in opposing new government investments. More than two in three Americans agree that "government has a responsibility to provide financial support for the poor, the sick, and the elderly," while 15 percent are neutral and another 15 percent disagree. Democrats remain almost unanimously supportive, and independents lean strongly toward this progressive position. A slim majority of Republicans similarly agree.

While conservative elites have long held government regulation as an impediment to economic growth, nearly three in four Americans disagree, believing instead that "government regulations are necessary to keep businesses in check and protect workers and consumers." Once again, there is surprising partisan and ideological harmony among Americans, with agreement topping 60 percent among both Republicans and conservatives. Seventy-six percent of Americans also agree with the president's argument that "America's economic future requires a transformation away from oil, gas, and coal to renewable energy sources such as wind and solar," with 12 percent neutral and just 11 percent who say such a transformation is not needed. A major pillar of Obama's economic vision, and the key to his cost-containment strategies, is ensuring affordable health coverage for all Americans. Nearly 65 percent of Americans are on board with this goal, including 44 percent who strongly agree that "the federal government should guarantee affordable health coverage for every American."

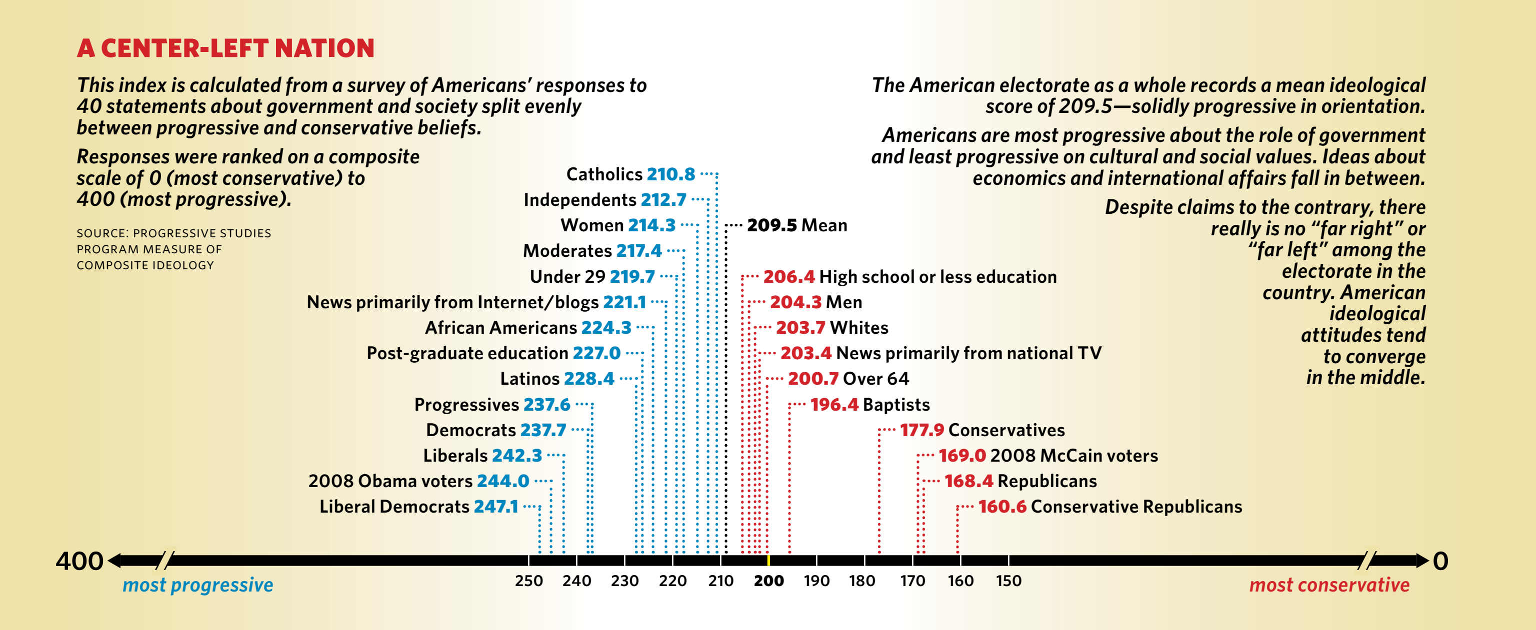
Complementing these consensus political values are significant demographic and electoral shifts that favor progressives. Obama's 53 percent of the popular vote in 2008 represents the largest share of the popular vote received by any presidential candidate in 20 years. The last candidate to register that level of support was George H. W. Bush, who won by an identical 53 percent–to–46 percent margin in 1988. Separated by 20 years, the two elections are mirror images of one another, but with conservatives on the winning end of the first and progressives on the winning end of the second.

What happened to create such a reversal? In those intervening 20 years, a new progressive America has emerged, with a new demography, a new geography, and a new agenda. The share of black, Asian, and Hispanic voters in presidential elections has risen by 11 percentage points, while the share of increasingly progressive, white, college-graduate voters has risen by four points. But the share of white working-class voters, who have remained conservative in their orientation, has plummeted by 15 points. This pattern is repeated in state after state, helping to send these areas in a progressive direction. For example, in Pennsylvania the white working-class population declined by 25 points between 1988 and 2008, while white college graduates rose by 16 points and people of color rose by 8 points. And in Nevada, the white working class is down 24 points over the same time period, while voters of color are up an astounding 19 points and white college graduates are up by 4 points.

This shift strengthens the progressive agenda and will continue to strengthen it in the future as the decline of the white working class and the rise in more progressive populations continues. By 2050, the country will be 54 percent people of color as Hispanics double from 15 percent to 30 percent of the population, Asians increase from 5 percent to 9 percent, and African Americans move from 14 percent to 15 percent.

Other key progressive constituencies are expected to grow as well. The millennial generation—those born between 1978 and 2000—gave Obama a stunning 66 percent–to–32 percent margin in 2008. Between now and 2018, millennials of voting age will increase by 4.5 million a year. Professionals, single women, and college-educated women are other growing groups that heavily favor progressives.

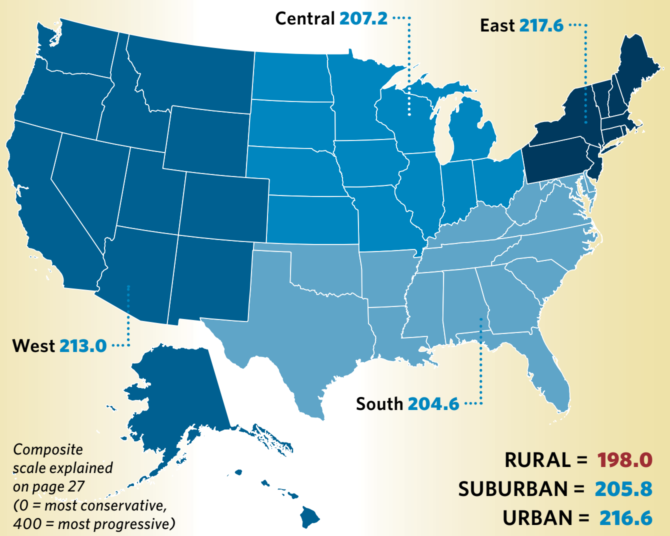
Geographic trends are equally important. Progressive gains since 1988 have been heavily concentrated in not just the urbanized cores of large metro areas but also the growing suburbs around them. Even in exurbia, progressives have made big gains. Only in the smallest metro areas and in rural America were progressive gains minimal. And only in the most isolated, least



populated rural counties did progressives actually lose ground.

Within states, there is a persistent pattern of strong progressive shifts in fast-growing metropolitan areas. In Colorado, Obama improved over Kerry's margin by 14 points in the fast-growing Denver metro area and made his greatest gains in the even-faster-growing Denver suburbs. In Nevada, Obama carried the Las Vegas metro area by 19 points, which was 14 points better than Kerry did in 2004 and 35 points better than Michael Dukakis did in 1988. In Florida, Obama won the Orlando metro area by 9 points, a 17-point gain over 2004 and an amazing 48-point shift since 1988. In Virginia, Obama dominated the D.C. suburbs, the growth engine of the state, by 19 points—15 points more than Kerry and 38 points more than Dukakis. The story is the same in state after state: Where America is growing the most, progressives are gaining strength and gaining it fast.

IDEOLOGY BY GEOGRAPHY



AS THE COUNTRY IS EVOLVING, so are the American people's views on what government can and should do. Start with the likely diminution in the culture wars that have bedeviled American politics for so long. While cultural disagreements remain, their political influence is being undermined by the rise of the millennial generation, increasing religious and family diversity, and the decline of the culturally conservative white working class. Culture-war issues such as abortion and gay marriage, which so conspicuously failed to move many voters in the last couple of elections, will lose even more force in years to come.

Instead, we are likely to see more attention paid to health care, energy, and education—issues Americans care about and in which government has a positive role to play. The public holds distinctly progressive views in each of these areas, supporting health care for all, a transition to clean energy, and building a 21st-century education system, including a major infusion of resources to improve K-12 education and college access. The public's commitment to these progressive goals is only likely to intensify, since rising demographic groups tend to be especially supportive.

Although these attitudinal and demographic trends strongly suggest a rising progressive America, the emergence of this new coalition and agenda is neither assured nor automatic. Conservatives are not out of the ideological hunt altogether. Majorities of Americans, ranging from 55 percent to 58 percent, agree with a cluster of conservative ideas about the role of markets, taxes, Social Security, and limited government. Nearly two-thirds of Americans agree with the conservative stance on free trade, and another six in 10 support the conservative view that "government spending is almost always wasteful and inefficient."

Similarly, recent political history from both the Clinton and Bush years shows us that voters are often fickle and prone to significant shifts in opinion if their demands and desires are not met or if leaders fall short of their expectations. Voter antipathy toward Bush and conservatives could easily shift toward Obama and progressives if they are not careful. The economy, public spending, and the financial bailouts are the most likely issues to trip up progressives; they are areas where our study found clear undercurrents of anti-corporate, anti-bailout populism across many segments of the electorate.

CULTURE-WAR ISSUES, WHICH SO CONSPICUOUSLY FAILED TO MOVE MANY VOTERS IN THE LAST COUPLE OF ELECTIONS, WILL LOSE EVEN MORE FORCE IN YEARS TO COME.

The research also reveals an interesting complexity in American ideology that could alter the political calculus in important ways. For example, we find that majorities of self-identified conservatives agree with four out of five progressive perspectives on the role of government, while majorities of self-identified progressives and liberals agree with conservative economic positions on trade and Social Security.

Conservatives could possibly take advantage of these ideological complexities with a leader who reconfigured the Republican Party to better address progressive goals through conservative means, as has David Cameron, leader of the Conservative Party in Britain. However, given the ideological sentiments enveloping the GOP today, this transformation seems unlikely in the short term. Unless and until conservatives recognize the depth of affinity between Obama's ideological progressivism and that of the American electorate, conservative ideas likely will remain in secondary status for years to come.

As for progressives, they have a marvelous opportunity. If Obama and his supporters can deliver on his ambitious agenda, with the very real changes that it would bring to our country, these changes will reinforce the progressive values that are now ascendant. This reinforcement of progressive beliefs, bolstered by ongoing demographic trends, would, in turn, create the possibility of more progressive change. Such a virtuous circle could lead to a real and durable political realignment. **TAP**

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The Next War Over the Courts

Conservatives are already fired up about Obama's judicial nominations. Is the White House prepared for the fight?

BY DOUG KENDALL AND SIMON LAZARUS

On March 17, President Barack Obama announced his first judicial nominee: David Hamilton, a 15-year veteran Indiana federal trial judge with the declared support of both Indiana senators, Republican Richard Lugar and Democrat Evan Bayh. With his selection of Hamilton for the 7th Circuit Court of Appeals, Obama fulfilled a promise he reportedly made to Republicans. The previous month, ranking Judiciary Committee Republican Arlen Specter told *Roll Call* that the president had assured him that he would send up nominees "who can get Republican support" and "be acceptable to all sides."

Hamilton is by all accounts a great pick. A brilliant young judge respected on both sides of the political aisle, his nomination was endorsed by liberal advocacy groups like People for the American Way but also by the president of the Indianapolis lawyers chapter of the Federalist Society, Geoffrey Slaughter, who rated him "an excellent jurist" whose "judicial philosophy is left of center, but well within the mainstream, between the 30-yard lines."

But you wouldn't learn that from the far-right attack machine; Wendy Long of the Judicial Confirmation Network labeled Hamilton "a hard-left political activist, [whose selection] signals that Obama does intend to push extreme liberals onto the bench and politicize the courts as we've never seen before." A Republican Judiciary Committee staffer told the *Los Angeles Times* that Hamilton would "not have an easy walk" to confirmation. But the White House did not appear easily discouraged. A "senior administration official" told *Politico* that day: "We are eager to put the confirmation wars behind us—to turn the page and work with senators from both sides of the aisle to achieve at least a bipartisan process."

The White House is hoping to move nominees through the confirmation gauntlet with relatively little Republican obstruction and to avoid diverting time, energy, and political capital from Obama's top priorities. Indeed, that may happen for Judge Hamilton, given that he has exceptionally broad support and a home-state senator who is one of the few remaining GOP moderates. But his example may not prove persuasive with the typical Senate Republican.

The judicial-nomination wars are back. With 84 vacant and soon-to-be-open seats on the lower federal courts, as well as potential openings on the Supreme Court at the close of the term, conservatives are primed for a fight over even the most moderate nominees. Early signs indicate that the White House is reluctantly entering this fray with a less-than-fully-baked game plan that could simultaneously undermine the president's chances to change the direction of the federal courts and stall his broader agenda.

REPUBLICAN CAUCUS LEADERS are not about to let Barack Obama turn down the thermostat on the politics of the courts. They see revived warfare over judicial nominations as a tool for firing up their base, undermining Democratic support among working-class cultural conservatives, and tarnishing Obama's basic claim to transcend Washington gridlock and "childish" partisan squabbles. As crusading conservative lawyer Kenneth Starr warned in a Valentine's Day speech in Boston, "Long simmering resentments over Democrats' treatment of President Bush's nominees," plus then-Senator Obama's (largely symbolic) votes against John Roberts' nomination and against closing off debate on Samuel Alito's nomination, will license Republican senators to withhold "bipartisan help for confirming judges or even an up-or-down vote." Two weeks later, on March 2, all 41 Republican senators signed a letter confirming Starr's filibuster threat. They vowed not to support "moving forward" on any judicial nominee from their respective home states of whom they do not "approve." Never mind that only a small handful of Bush's nominees were actually blocked by filibusters and that Republican end-of-term stonewalling was both more relentless and more successful than the Democrats mustered against Bush. Bill Clinton left the White House with 27 appellate court vacancies for his successor to fill, while Bush left only 17.

Right-wing culture warriors have used hyperbolic campaigns against Obama's top Justice Department nominees to pilot-test their smear tactics against his judicial selections. During confirmation proceedings, the Traditional Values Coalition and other like-minded groups branded Deputy Attorney General David Ogden an "outrageous pro-pornography zealot," distorting Ogden's representation of clients in private practice and ignoring Ogden's argument as assistant attorney general in the Clinton administration in support of the constitutionality of the original Child Online Protection Act. (This law was invalidated unanimously by the Supreme Court.) During Ogden's Feb. 5 hearing, senior committee members such as Orrin Hatch and Jeff Sessions reinforced this inane caricature, grilling Ogden about, as Sessions put it, "the pornography positions you've taken." Although their filibuster attempt fizzled, Hatch and Sessions mobilized 26 colleagues to cast floor votes against Ogden's confirmation.

Meanwhile, conservative thought leaders are adding new wrinkles to the right's yellowing talking points about "liberal activist judges" and liberal "living constitutionalists," who "make it up as they go along." In a breathless pre-election *Wall Street Journal* op-ed titled "Obama's 'Redistribution' Constitution," Northwestern University law professor and Federalist Society co-founder Steven Calabresi pounced on Obama's statement that judges should have "the heart, the empathy to recognize what it's like" to be vulnerable and disadvantaged. Calabresi fretted that this "emphasis on empathy in essence requires the appointment of judges committed in advance to violating [their] oath" to administer equal justice to the poor and the rich.

More remarkable was a recent shot at Obama delivered by none other than the chief justice of the United States, John Roberts. Speaking at the University of Arizona on Feb. 4, Roberts lauded the fact that, since his predecessor, William H. Rehnquist, became chief justice, the once-diverse Supreme Court is now exclusively made up of former appellate judges. Compared with its predecessors, he asserted, the Supreme Court now takes "a more legal perspective and less of a policy perspective." In the past, he continued, the "practice of constitutional law" was "more in the realm of political science." Roberts did not single out for criticism anyone who had expressed a contrary view. He didn't have to. Obama has repeatedly echoed a widespread concern that the Court has become a kind of legal priesthood, too inbred to wisely apply the law to the matters of great social and political magnitude that appear on its docket.

Of course, judicial conservatives are the ones who have most deservedly earned the "activist" label, by gutting an array of statutory protections for workers, consumers, retirees, and minorities. Nevertheless, there is evidence that the right's caricature of Obama's view of the Court is gaining traction in potentially influential quarters. On Feb. 18, the *Christian Science Monitor* editorialized that Obama's admiration for judges with "empathy" means he aims "to use the Constitution for

PETE SOUZA / REUTERS / LANDOV

The Inherited Court: U.S. President-elect Barack Obama and Vice President-elect Joe Biden visit the U.S. Supreme Court in Washington, Jan. 14, 2009. Also pictured are Chief Justice John Roberts Jr. and Justices John Paul Stevens, Ruth Bader Ginsburg, Clarence Thomas, and David Souter.

social policy," rather than "impartial" application of the law. Other prominent voices, including *Newsweek* columnist Stuart Taylor, have weighed in suggesting Obama should abandon or moderate any ambitions he may have to shape the federal courts to avoid a fight over judges. Such stern warnings by voices perceived as independent and nonpartisan can only embolden conservative Republicans to filibuster Obama's judicial nominees, especially his Supreme Court nominees, and increase the chances that moderate Republicans (and possibly some red-state Democrats) could be cowed into going along.

LEAVING THE RIGHT ALONE to shape the initial debate could severely handicap the president and his allies when the battles begin in earnest. The White House needs a strategy for ensuring blue-state Republican and red-state Democrat opposition to any stonewalling of judicial nominees. Even within the Judiciary Committee, Arlen Specter's support will be needed to break filibusters, because Chair Patrick Leahy has pledged to faithfully apply the committee's rule requiring at least one member of the minority party to join the majority in order to cut off debate. (Former committee chair Orrin Hatch spurned the rule, but Specter, Hatch's successor from 2004 to 2006, reinstated it.)

But the president will not earn that support by negotiating against himself with defensive pledges to name candidates "acceptable to all sides." Signaling that the White House considers bipartisan "consensus" an end in itself, unmoored to any substantive criteria as a credible bottom-line, will incentivize Republican negotiators to make exorbitant demands and keep ratcheting them up. The likely result will either be gridlock, or, worse, de facto capitulation and White House candidate slates scrubbed free of individuals who appear likely, once confirmed, to redirect the currently right-leaning federal judiciary (Democratic appointees occupy a mere 36 percent of the seats on the courts of appeal).

EARLY SIGNS INDICATE THAT THE WHITE HOUSE IS RELUCTANTLY ENTERING THIS FRAY WITH A LESS-THAN-FULLY-BAKED GAME PLAN.

The stakes are high, as the intensely court-focused social conservative and business lobbies will hardly let their senators forget. For the last quarter-century, conservatives have eroded constitutional rights and liberties and slowly gutted hard-won statutory protections for workers, retirees, consumers, women, Americans with disabilities, minorities, safety-net beneficiaries, and the environment. Now that Democrats have control of the executive and legislative branches, they face a window of opportunity to reverse these trends. Indeed, filling vacancies with top-quality jurists will prove essential to ensuring that Obama's own ambitious legislative initiatives, once on the books, do not fall prey to the same sort of willful misinterpretations that the Roberts Court deployed, for example, to upend equal-pay-opportunity guarantees in its notorious 2007 decision in *Lilly Ledbetter v. Goodyear*.

Throughout American history, conservative federal judiciaries have stymied change-minded administrations (and state governments): during the aborted Reconstruction Era following the Civil War; during the early 20th-century Progressive Era; and during the first several years of the New Deal until 1937 when President Franklin Roosevelt finally turned the Supreme Court and lower federal courts around with new appointments. To avoid a reprise of those dreary episodes, President Obama will have to carefully select judges committed to faithfully interpreting progressive initiatives in line with Congress' intent, and be prepared to muster 60 Senate votes to confirm them.

The White House is right to want to "put the confirmation wars behind us," but, as long as Republicans count high-decibel strife in their interest, the Obama administration's reliance on behind-the-scenes horse trading with its Senate adversaries is a dead-end strategy. The president must reshape the political environment by changing the terms of the national debate about the courts. He needs to publicly proclaim his own affirmative vision, one that is compelling on the merits, broadly resonant, and capable of rendering obstructionism bad politics for Republicans in competitive states. In the recent past, Democratic presidential candidates have been tongue-tied when forced to address issues about the Constitution and the courts—flummoxed by anxiety that anything they say will displease either court-focused liberal advocacy groups or critical cultural conservative and independent electoral constituencies. In his writings, Senate speeches, and campaign statements, Obama has tried out several new approaches. Some of these are promising. Others, however, appear more like off-the-cuff musings of the law professor he once was—and conservatives have used them as an excuse to pin the "liberal activist" label on him. In addition to his comments on judicial "empathy," Republican critics have seized on Obama's statements about the "hardest 5 percent of cases" where the law is so indeterminate that judges must rule based on their underlying beliefs. On the day Obama nominated Judge Hamilton, Press Secretary Robert Gibbs unhelpfully fused these two ideas, asserting that judges have their "own empathy and value system" that leads them "to make a conclusion one way or the other," thereby dampening the administration's otherwise successful attempt to brand Hamilton a moderate with bipartisan support.

WHAT OBAMA NEEDS TO DO is to winnow from his varied statements about the courts a coherent set of persuasive messages and deliver them with what McCain strategist Steve Schmidt admiringly characterized as the "ice-cold discipline" he showed during the presidential campaign.

First, Obama can reclaim the political high ground by stressing that the nation's support for the Constitution should be a source of unity, not division. He has this potent riff down pat—indeed, he invented it, in *The Audacity of Hope*—but neither he nor his administration spokespersons have used it nearly enough. For all our disagreements on particular legal issues, Obama writes, all Americans, conservative or liberal, embrace the Constitution and the fundamental principles of liberty, equality, and democracy expressed in it. Independents and even some Republicans are likely to nod in agreement with his gentle put-down of the right's attempt to brand conservative judges "constitutionalists": "We are *all* constitutionalists."

Second, Obama can reclaim the constitutional high ground by stressing unequivocally that the role of judges is to interpret the actual provisions, principles, and purposes of the Constitution and laws—not to enact their own policy or political agendas. Embracing this civics-class canon will not merely defuse attacks from the right but greatly strengthen the ability of the administration to take the offensive. Again, it is the conservatives on the current Supreme Court who have been most activist, frequently in ways that could thwart the Obama administration's agenda. (In a recent study by Cass Sunstein—then at Harvard Law, now Obama's White House regulatory czar—ultraconservative Justice Antonin Scalia racked up the most "activist" bona fides by overturning federal-agency decisions opposed by business litigants, while liberal Justice Stephen Breyer proved the most deferential to agency judgments.) Obama needs to face this potential threat to his agenda head on, challenging conservatives to honor their professed favor for judicial restraint, fidelity to the Constitution, and judges who will, in fact, follow the law as written.

Obama can stress that the text of the Constitution means the *whole* Constitution—not just, as conservatives often seem to assume, the original document as ratified in 1789. The Constitution, after all, includes all the amendments adopted over the last two centuries. In addition to the first 10 amendments (the Bill of Rights adopted in 1791), they include the Reconstruction amendments (numbers 13, 14, and 15), which mandate individual equality and national citizenship as the law of the land and specifically empower Congress to enforce those mandates. They also include Progressive Era amendments (numbers 16, 17, and 19), which vastly increased the federal government's economic resources and leverage through nationwide income taxation, reinforced democratic rule by requiring popular election of senators, and extended the franchise to women. If the Constitution is a "living" document, it is mainly because We The People have amended it in significant ways over the past 220 years.

Moreover, focusing on text and history actually strengthens the case for interpreting the Constitution to address changing times and contemporary needs. The framers' broad terms were inherently—"originally"—designed to accommodate the unforeseen needs of future generations. As Chief Justice John Marshall famously wrote in 1819, "This is a *Constitution* we are expounding ... intended to endure for ages to come, and consequently to be adapted to the various crises of human affairs."

Third, Obama can turn the "activist" canard against the right and make judicial-nominee battles matter to middle American voters by stressing that his nominees will faithfully enforce laws passed by Congress and the states to meet basic needs of ordinary citizens. Obama has come close to getting this message point right. When he endorsed judges with

George Bush with his White House Counsel, Harriet Miers

REUTERS / LANDOV

HOW BUSH WON THE WAR FOR THE COURTS

Over the course of his term, President George W. Bush upped the number of Republicans on federal courts by 12 percent. With then-chair of the Judiciary Committee, Sen. Orrin Hatch of Utah, as his hired gun, Bush fought tooth and nail for that advantage. Here's how they did it:

SLIPSHOD STANDARDS Since 1917, presidents have been mailing out blue slips of paper to judicial nominees' home-state senators to invite comment on the nomination. In December 2002, Sen. Hatch announced he would not abide the tradition. No blue slip? No problem.

A LOW BAR President Dwight D. Eisenhower was the first to invite the American Bar Association to screen judicial candidates before their Senate hearing. Bush cut the ABA out of the vetting process, declining its stamp of approval—or disapproval, as he feared.

MAJORITY RULES Under a Judiciary Committee rule, a nominee stays blocked in committee unless at least one minority party member supports a motion to vote on that nominee. In February 2003, Sen. Hatch excised that rule. The committee went on to hold hearings and votes without a lick of cooperation from the minority.

MULTIPLICITY In January 2003, Sen. Hatch did away with the Judiciary Committee's practice of holding hearings on only one controversial nominee at a time, making it impossible to scrutinize the record of each.

END-GAME EGO In the months before a presidential election, the Judiciary Committee freezes the confirmation process to allow the next president to fill the vacancies. As Bush's term drew to a close, Sen. Hatch conveniently denied this tradition.

GOING NUCLEAR Bush left Democrats one defense: the filibuster. But Senate Republicans even angled to rid them of that. The "Nuclear Option" aimed to eliminate the right to filibuster a judicial nominee. The ensuing partisan brawl, which put the Senate on the verge of a constitutional crisis in 2005, ultimately ended with a "compromise" brokered by the "Gang of 14" senators. Three highly conservative circuit court judges were then confirmed. —CAROLYN PETRI

SOURCE: ALLIANCE FOR JUSTICE, JUDICIAL SELECTION DURING THE BUSH ADMINISTRATION, OCTOBER 2008.

"empathy" for vulnerable individuals, he seemed to be trying to remind the public that courts are not only important for their impact on hot-button culture-war issues but also for their impact on issues that matter to ordinary citizens.

His frequent campaign appearances with Lilly Ledbetter—a female worker denied equal pay for years, then denied a remedy in court because her company successfully hid this discrimination from her—conveyed his notion that courts should safeguard American citizens' day-to-day needs. Ledbetter's real-life example caught the attention of many people who typically feel little or no connection to political battles about the judiciary. Now, Obama and his allies need to tightly link concern for victims of injustice like Ledbetter with insistence on the primacy of the rule of law. They need to stress that the *Ledbetter* case is about judges who let their solicitude for the convenience of business trump Congress' aim of bringing robust legal protections to the factory floor. And *Ledbetter* is the tip of an iceberg. As noted by Sen. Patrick Leahy during a June 2008 hearing, in areas of greatest concern to Americans struggling with a worsening economy, such as access to health care, retirement security, workplace fairness, and predatory lending, "in many cases, the Supreme Court has ignored the intent of Congress, oftentimes turning laws on their heads, and making them protections for big business rather than for ordinary citizens."

IF OBAMA CAN SUCCEED IN CLAIMING THE CONSTITUTIONAL HIGH GROUND AND BRANDING RIGHT-WING JUDGES AS THE TRUE "ACTIVISTS," HE IS LIKELY TO REAP BROADER POLITICAL BENEFITS.

Empathy, Obama must clarify, is not a quality separate from or incompatible with the law. To correctly apply remedial laws in accord with their core goals of protecting workers, consumers, retirees, and other vulnerable individuals, judges need the capacity to grasp life circumstances different from and generally much less favorable than their own. That brand of empathy was precisely what was absent from the approach of the five conservative justices who threw Lilly Ledbetter out of court on the basis of a tortured interpretation of statutory fine print that made the equal-pay guarantees of the 1964 Civil Rights Act useless to real-world discrimination victims and defeated Congress' core goals in crafting that law. And it has been absent from—indeed, scorned in—scores of decisions from the Rehnquist and Roberts courts.

If Obama is successful in claiming the constitutional high ground and branding right-wing judges as the true "activists," he is likely to reap broader political benefits. In a January 2009 Rasmussen poll, 64 percent of independents and 52 percent of Democrats agreed that Supreme Court decisions should be "guided by what's written in the Constitution" as opposed to "fairness and justice" (as, predictably, did 79 percent of Republicans). While some progressive observers have questioned the wording of the question, the poll clearly indicates broad support for judges who apply the law "as written"—especially among independent voters influential with moderate Republicans pondering whether to join the effort to stonewall Obama's judicial nominees. It also shows the potential problems that could lie ahead for Obama: Only 35 percent of the public believes he will appoint judges who will follow the written Constitution.

Polling by the Mellman Group in September 2008 shows Obama's path out of this political box. In a survey commissioned by the Constitutional Accountability Center, Mellman tested the conservative sound bite about judicial restraint head-to-head against two versions of the progressive idea that judges must at times stand up to the president and Congress. The version of the progressive message that referenced the Constitution's Bill of Rights as the basis for judicial protection of individual rights and liberties outperformed a progressive message that made no reference to the Constitution by 22 percent—and beat the conservative judicial restraint argument by a whopping 35 percent. Similarly, a "living constitution" message rooted in "Amendments passed over the past 220 years" outperformed standard progressive messaging about the Constitution "evolving with changing times" by a full 36 percent—and beat the conservative line about judges being bound by the Constitution's original meaning by 24 percent. Americans of all political stripes love the Constitution, and by making a connection between that document and his goals, Obama will speak to a much broader swath of the public with his message on the future of the federal judiciary.

In the 2008 elections, independent voters were drawn to Barack Obama's rhetoric on pocketbook issues like health care and fair pay—the kinds of rights at stake in the *Ledbetter* case and in similarly egregious cases concerning denials of redress for unlawfully withheld health-insurance benefits, lethally unsafe medical devices, and fraudulent debt-collection practices, as detailed in Sen. Leahy's summer 2008 hearings on the impact of the Supreme Court on ordinary Americans. Significantly, in April 2008 and January 2009, six and five Republicans respectively—more than the three who voted for the Obama stimulus plan—defied their caucus and the Chamber of Commerce and voted for the Lilly Ledbetter Fair Pay Restoration Act.

The fight for the future of the courts cannot be finessed, but it can be won—and thereby reinforce, not muddle or thwart, the president's broader agenda. To do so, Obama and his allies need to take the offensive and propagate a vision that honors Americans' shared reverence for the Constitution as the basis for cherished freedoms, respects the courts as law-interpreters not policy-makers, and promises judges who faithfully enforce legal protections for ordinary Americans. At one time or another, Obama has acknowledged all the elements of such a vision. Now he just has to put the right pieces together, stay consistently on message, and summon the unmatched eloquence he always seems to find when it is most needed. TAP

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Charitable Relations

Philanthropy adapts to the Obama era.

BY LAUREN FOSTER

Last November, two weeks after Barack Obama was elected president, Gara LaMarche took to the podium at the annual meeting of Southern California Grantmakers. The president and chief executive of The Atlantic Philanthropies was in particularly good spirits. "It is nice to be able to say you look forward to working with your own government to make the world a better place—independent of it, surely; at times critical of it—but feeling you have a partner, not an adversary," he told the crowd. "Maybe demonstration projects we fund in philanthropy that actually demonstrate something will no longer be like the proverbial trees that fall in the forest with no one to hear them."

In January, LaMarche and several other foundation leaders got an inkling of the possibilities when they were invited to Washington for a meeting with Obama's transition team. Over the course of several hours, the grant-makers, including Ralph Smith, executive vice president of the Annie E. Casey Foundation, and Robert Ross, president and chief executive of The California Endowment, received a series of briefings from incoming government officials. The point of the gathering, LaMarche says, "was to hear from philanthropy and brief philanthropy about where the administration was going and how there could be partnerships and collaborations."

To those who attended, it was "a clear and powerful" signal of the kind of partner the government could be. "It was nothing less than extraordinary," Ross says. "I've only been in the world of philanthropy for eight years, but veterans of the field were remarking that it was an unprecedented strategic outreach to talk about partnerships." It was also an opportunity for the foundations to think about their role in working with the new administration. "Philanthropy didn't come in with an agenda as such and the general message that emerged from the philanthropic side was 'We have knowledge about things that work that you can know about and then lift up,'" LaMarche says. "I felt the meeting showed that philanthropy had to raise its game, that we had to be more prepared to operate in real time with real opportunities. ... A challenge of the moment is how philanthropy generally relates to a more activist government."

Historically, the relationship between philanthropy and government has been one of innovator and adaptor: Foundations design initiatives or pilot programs that address social problems, and once they have demonstrated success, the government steps in with federal resources to re-create the program around the country. One of the best known—and most controversial—examples is the Ford Foundation's Gray Areas program, an urban-renewal plan that helped pave the way for the Johnson administration's "War on Poverty" in the 1960s.

While not all programs that are replicated are ultimately successful, foundations' greatest achievements have usually occurred when government has stepped in. During the Bush administration, however, many foundations were stymied because the federal government was not willing to work with them in the same way as previous presidencies had been willing to. The result was that many progressive grant makers focused their efforts on changing the political climate until a more sympathetic president took office. Now that day is here, and foundations are confronting what it means to work with government again. In particular, they are working to showcase solutions to social problems, such as poverty, housing, public education, and health care, that may be replicated on a national scale—with the help of the Obama administration, of course.

Since the election, foundations and nonprofits have sought to define their relationship with the new president. Many in the sector see him as a natural ally. After all, he was a board member of The Joyce Foundation and Woods Fund in Chicago, chaired the city's Annenberg Challenge, and his mother at one time worked for the Ford Foundation in Indonesia. Moreover, Valerie Jarrett, who also served on the board of The Joyce Foundation, is now senior adviser and assistant to the president for intergovernmental affairs and public liaison.

In an op-ed in the *San Francisco Chronicle* in January, Jane Wales, co-founder of the Global Philanthropy Forum and vice president at the Aspen Institute, says the administration, "strapped for resources, yet charged with large responsibilities," has reached out to the social sector in a variety of ways. "[Obama] has signaled the kind of partner this government hopes to be," she writes.

The notion of government as a "partner" can mean many different things. What most foundations hope for when they partner with government, be it at the local, state, or federal level, is that the additional financial resources will allow successful programs to be sustained, replicated, and made available to more communities. Other foundations are looking for ideological support—an administration whose policies are broadly in line with their own. The Robert Wood Johnson Foundation was an ardent backer of the Clinton health-care plan. In 1994, RWJF paid $1.5 million for the broadcast time and an additional $1 million to promote and advertise a two-hour program on the need for health-care reform, which featured Hillary Clinton. Many in the public sector view partnership as foundations not only kicking in some cash to get a new program started but stepping in where government resources have dried up—say, to save a homeless shelter that has lost funding and faces the threat of closure.

Other partnerships can come in the form of the government financing projects or using research that foundations have been working on for years. As Joel Fleishman notes in his book, *The Foundation: A Great American Secret; How Private Wealth is Changing the World*, while the national Earned Income Tax Credit (EITC) program "was not developed by foundations, it was a foundation-created and -supported organization, the Center on Budget and Policy Priorities, a nonprofit think tank, that led the way in extending the EITC to the states."

For the Council on Foundations, a partnership with the new administration means considering ways to jointly address challenges. "President Obama has signaled he understands the importance of philanthropy in finding solutions," said Steve Gunderson, the council's president and chief executive, in a February address to a group of funders who had gathered in Indianapolis. "He believes in the power of partnership, and he wants philanthropy to step forward."

Philanthropic organizations are certainly ready to step forward. But how they will actually work with the Obama administration remains to be seen.

OF ALL THE PROGRAMS THAT foundations are hoping the Obama administration will pick up and run with, perhaps none has gotten more attention than Harlem Children's Zone, a New York City charity run by Geoffrey Canada and supported by foundations, financial institutions, corporate executives, and various government entities.

The goal of the Zone, as it is known, is to break the cycle of generational poverty by addressing the spectrum of problems that poor families face, from failing schools and violent crime to chronic health problems. Over the years it has introduced several initiatives: in 2000, Baby College parenting workshops; in 2001, Harlem Gems pre-school program; also in 2001, the Asthma Initiative, which teaches families to better manage the disease; in 2004, the Promise Academy, a high-quality public charter school; and in 2006, an anti-obesity program to help children stay healthy.

Obama was paying attention. In July 2007, the then-senator announced a plan to fight poverty that included creating "promise neighborhoods" in 20 cities modeled after the Harlem project, which he said was "an all-encompassing, all-hands-on-deck anti-poverty effort that is literally saving a generation of children in a neighborhood where they were never supposed to have a chance." Obama said the federal government would provide half the money, and philanthropies and other private entities, the rest. Arne Duncan, Obama's secretary of education, voices support for replicating the charity's approach in an article in the April issue of *Chicago* magazine. Asked whether he is familiar with what Canada is doing, he tells the reporter: "Yes. I'm going to create 20 Harlem Children's Zones around the country. I am." And does Duncan think he will face opposition? "I don't care. I'm going to fund it," he replies.

But even with the government on board, replicating programs like Harlem Children's Zone is a difficult—if not impossible—task. There have been no announcements on how the administration plans to do this, and foundations themselves often have a difficult time expanding on successful pilot projects. "We are in the business of investing in solutions and the major challenge is actually when we find one, we don't know how to scale it up into policy-driven, systemic change," says Ross of The California Endowment.

As Paul Tough, author of *Whatever It Takes: Geoffrey Canada's Quest to Change Harlem and America*, writes in the January/February issue of *Mother Jones*, "I've heard one question over and over: Can it really be reproduced? It's true that it took a leader with Canada's unique qualities and personal history to create the first Harlem Children's Zone, to inspire donors enough to expand it from a modest community organization into a nonprofit powerhouse with a $68 million annual budget. But replicating the Zone, especially with federal backing, will require a different and more attainable set of skills. ... The bigger question is whether Obama, once in office, will conclude that the government can't now afford this kind of bold initiative."

This is why people like William Dietel, president of the Pierson-Lovelace Foundation in Los Angeles and a partner in the philanthropic consulting firm Dietel Partners, say the Council on Foundations should stop making vague calls for partnership and start being more vocal on the specif-

Exporting Ideas: Geoffrey Canada chats with Prince Charles and Duchess Camilla on Harlem Children's Zone's rooftop terrace in New York, Jan. 28, 2007.

CHIP SOMODEVILLA / REUTERS / LANDOV

ics of how they can work with the Obama administration.

"For example, something so simple as the Council on Foundations gathering the foundation community together and saying: Let us commit X billions of dollars of our capital to a challenge to the federal government to address X, Y, and Z issues where we have some knowledge, we have some experience, and we know that if we had adequate resources and we are willing to put up our share, we could really move the needle in a partnership," says Dietel, who is also a former president of the Rockefeller Brothers Fund. "But I don't see anything like that coming out of Gunderson. It's all rhetoric: 'Let's have a partnership.' Well, come on, these are times when words aren't what counts, what counts are actions, and what would you specifically propose? We'll wait till hell freezes over before we hear from him."

MANY SERVICES THAT AMERICANS take for granted—public libraries in every small town, public broadcasting, even the national 911 emergency response telephone system—were born in foundations and brought into mainstream life by a partnership with government.

The Public Broadcasting System, for instance, was spawned by the Carnegie Corporation's 1967 report, "Public Television: A Program for Action," by the Carnegie Commission on Educational Television. In the 1970s the Robert Wood Johnson Foundation supported projects that led to the development of the 911 emergency-response system. And in 1974, the Ford Foundation, in conjunction with a group of federal agencies, created the Manpower Demonstration Research Corporation to evaluate programs and policies targeted at low-income people. Years later, the research produced by the Ford Foundation and federal agencies provided the evidence on which the Clinton administration and Congress enacted major welfare-reform legislation in 1997.

PROGRESSIVE GRANT MAKERS SPENT THE BUSH YEARS TRYING TO TRANSCEND IDEOLOGY. TODAY, SOME OF THEIR GRANT RECIPIENTS ARE WORKING INSIDE THE OBAMA ADMINISTRATION.

The heyday of such collaborations was the 1960s and 1970s—but several notable partnerships also formed during the Clinton years. The Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) was launched in 1992 to address the fact that young people are often unnecessarily detained, with debilitating consequences for both public safety and youth development. JDAI is considered one of the country's most effective efforts at reforming the national juvenile-justice system. It was designed to ensure that serious and chronic youth offenders are detained, while effective alternatives are available for other youth who can be safely supervised in the community while awaiting their final court disposition. From the outset, JDAI was designed to be a collaboration between the foundation and state or local governments. It all started with five pilot programs, funded by the foundation, in counties across the country. The outcomes were so successful that other counties and states took notice. This year, JDAI will be in more than 100 jurisdictions in 28 states and the District of Columbia. The way the partnership now works is that the foundation offers technical assistance to new JDAI sites in order to help get the site up and running while the local and state governments finance most of the actual reform efforts.

For major social innovations to be successful, foundations require an "activist, expanding federal government" as a partner. "There is no significant social initiative or innovation at any kind of scale that can be funded primarily by private dollars," says LaMarche. Karl Stauber, president and chief executive of the Danville Regional Foundation, explains that "foundations, working in close cooperation with other institutions, identify important social issues, explore possible approaches deemed to be worthy of experimentation, fund the experiments at some scale, assess the results, and then, if appropriate, attempt to transfer the model to permanent government funding."

Given that the Obama administration is, so far, an activist, expanding federal government, some wonder whether we are returning to the era of major public-philanthropic partnership. "I would say that on the continuum the answer is absolutely—it returns organized philanthropy to its rightful place as incubators for innovation and problem-solving," Ross says. "On the other hand, the world is a far more complex place. It is far more ideologically constrained—the politics are more unforgiving and treacherous, and so it's a tougher moment to have the ideas break through the ideologies."

Fleishman says philanthropic-public partnerships "happened much less during the Reagan administration and more in Clinton and very little in the second Bush administration." Many progressive grant makers spent the Bush years trying to transcend ideology. Today, they find themselves in unfamiliar territory—some of their grant recipients are now working inside the Obama administration and their policy agendas are more aligned than during the Bush years.

Last year *The Chronicle of Philanthropy* asked the Center for Responsive Politics, a nonpartisan research group in Washington, to compile data from the Federal Election Commission on donations to presidential and congressional candidates and political-party committees from staff members at the 25 wealthiest foundations and 75 of the largest charities. The data showed that Democrats received 88 percent of the almost $1.2 million contributed from January 2007 through August 2008 and that Obama received 12 times as much in donations than did his Republican rival, Sen. John McCain—about $399,000 to almost $32,000.

"It's a new day for many because the people who are populating the government have strong philanthropic ties and nonprofit ties, so that's a different relationship. You can pick up the phone and talk to someone," LaMarche says. "There is access that was unthinkable in the Bush administration."

Yet "it is too easy to say the prior administration didn't care about philanthropy and this one does. That is both too easy and wildly inaccurate," says Smith of the Annie E. Casey Foundation. "What you have here is a level of intentionality about finding solutions to social problems. The seriousness of purpose

around finding solutions leads this administration to focus more intensely, and more intentionally, on looking for partnerships. I think you will see this administration really promoting partnerships with the private sector, partnerships with the faith community, and partnerships with philanthropy."

Fleishman agrees. "I would bet you that every large foundation with a substantive policy interest in the field of health policy has already been engaged with the Obama administration in its thinking about what do to about health reform," he says. "And I would bet you, too, that virtually every significant foundation that is interested in education was engaged with the Obama people during the transition period about what's to be done to reform education and what kind of role foundations could play along with everybody else." For now, however, partnerships remain an ideal.

THE BIG UNKNOWN IS HOW the economic crisis will affect collaboration. Will it put greater emphasis on partnerships? Or will innovative ideas flounder without funding as the government is forced to focus on repairing the economy? Already, some privately funded programs are struggling. Harlem Children's Zone, for all the plaudits it has earned, has been hard hit as the financial crisis has crimped donations from Wall Street.

THE ECONOMIC CHALLENGES ARE IMMENSE, BUT IT IS AT THESE MOMENTS OF UTTER CRISIS THAT THERE IS A PREMIUM ON GREAT IDEAS.

"On the one hand, the economic challenges are unprecedented, at least in our lifetime," Ross says. "At the same time, it is through these moments of utter crisis that there is a premium on great ideas." One example of crisis and opportunity, he says, is the French Maternal and Child Health system. In late 1945, Charles de Gaulle embarked on the process of rebuilding postwar France; scores of young men had been killed, birthrates were low, and maternal and infant mortality rates were alarmingly high. "The future of a generation of citizens was at stake—and was at the mercy of a nation in ashes with a broken health care system," Ross wrote recently in *The Sacramento Bee*. "Out of this smoldering crisis, de Gaulle provided leadership to conceive and implement the French Maternal and Child Health system, called La Protection Maternelle et Infantile. ... More than a half-century later, the French PMI and health system serve as the envy of maternal and child health in the industrialized world."

The economic crisis affects not just government's ability to make long-term investments but the capacity of philanthropy itself, as many foundations reduce their spending dramatically to keep pace with shrinking endowments. While foundations are required by law to pay out 5 percent of their endowment in grants annually, and many foundations adhere precisely to that figure, the National Committee for Responsive Philanthropy recently issued a report urging foundations to voluntarily increase the payout to 6 percent annually, and some members of Congress have occasionally threatened to raise the payout rate by law.

Dietel, of the Pierson-Lovelace Foundation, believes a battle is looming on this front. "This is the moment made to order for foundations; they are tax-exempt organizations. Their purpose, their mission, is to help, and it is not to focus on maintaining their corpus. They are not financial institutions; they're charitable institutions, and therein lies the rub," he says. "What you're going to see is a very hot fight between government and the foundations, particularly the Council on Foundations."

The Council, he notes, has consistently resisted efforts to raise the payout. "I don't see any reason to think they have suddenly become enlightened or that their hearts have been touched in any way," he says. "Instead, they have fought Congress whenever this issue has come up."

Pablo Eisenberg, a senior fellow at the Georgetown Public Policy Institute and a regular columnist for *The Chronicle of Philanthropy*, wants the Obama administration to "put the heat" on foundations. Unlike many of his peers, he does not see the government making a concerted effort to reach out to philanthropy. "There's been no mention of the role of foundations," he says. "They ought to be saying: 'You've got a lot of money—why don't you guys provide some seed money?' They should be pushing foundations to give more money by increasing the payout to at least 6 percent in grants and be more in the trenches."

Stauber, of the Danville Regional Foundation, is cautiously optimistic, encouraged by Obama's speech to a joint session of Congress in late February. "I thought the opportunities [for foundations partnering with government] after the stimulus bill would be limited. I was blown away by [the] speech," he says. "Obama mentioned a number of initiatives where foundations have played an important reform-agenda role, [for example] Robert Wood Johnson Foundation and Kaiser on health care. Obama's discussions about education are very tied to work that's been done by a variety of foundations, including Annie E. Casey, Kellogg, Lumina, and Gates. As for reinventing the work force, a major component of the stimulus package and what the president was talking about was helping people to get the training they need: Annie E. Casey, Hitachi, and Ford have been involved in the National Fund for Workforce Solutions."

Partnerships between foundations and government at all levels are essential to a well-functioning society but are not without risk. "When a foundation enters into a partnership with government, its distinctive strength is its independence from government," Fleishman says. "It must maintain that independence at all costs. To serve society best, however, that independence should be used flexibly to achieve the greatest possible social impact."

Adds Ross, "We need to create partnerships around the ideas and not around the person who inhabits the White House. And that is the line we have to be very careful not to cross—not to become too enamored with a personality. We really are talking about partnerships that advance ideas that move this country forward, and if we keep that first and foremost in our thinking, the partnerships will go very well." **TAP**

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A Tale of Two Exurbs

Most outer-ring suburbs are being developed into unwalkable sprawl. But it doesn't have to be that way.

BY BEN ADLER

Leesburg, Virginia, is the archetypal American exurb. Named after an ancestor of Robert E. Lee, it is the seat of Loudoun County, 35 miles northwest of Washington, D.C.—the farthest true suburb west of Washington. To its west are small towns and a few remaining farms; to its east are highways lined with chain hotels, mega-malls, and the office towers of the defense contractors powering the recent growth in Northern Virginia's economy and population. In 2004, Loudoun was the nation's fastest-growing county, and median home prices were rising by about one-fifth every year. In 1990, Leesburg had only 16,000 people. Now it has 38,000.

Ask denizens of Leesburg what they love most about the town and they are almost certain to mention the downtown—a quaint outpost of the antebellum South, with the requisite ancient diner known for its peanut soup. Downtown Leesburg is a small warren of narrow streets laid out at right angles with brick buildings housing shops on the ground floor and offices above. It evokes such devotion because it offers something in very short supply in Northern Virginia and completely absent from the rest of Leesburg: walkability, a mix of uses and, therefore, character.

The downtown is surrounded on all sides by an incoherent network of strip malls and subdivisions connected by mostly unwalkable roads. This is not an accident, and it is not just the invisible hand of the market at work. It reflects political decisions to zone residential and commercial space separately, to require that every new house have a parking space but not necessarily a sidewalk, and to build at low densities. In fact, without rezoning, it would be illegal to build the beloved downtown in Leesburg today.

"Americans have no choice [but to drive]," says Christopher Leinberger, a developer who wrote *The Option of Urbanism: Investing in a New American Dream*. "They are captive." Americans use cars for almost 90 percent of their trips—with some unfortunate results. The decline of walking as part of Americans' daily routine has contributed to the obesity epidemic. The high cost of buying, maintaining, insuring, and gassing up a car for everyone over the age of 16 is a burden on American households. Our oil consumption amounts to an enormous foreign-aid package for Vladimir Putin, Hugo

A Quaint Outpost: Leesburg, Virginia's beloved downtown would be illegal to build today without rezoning.

PHOTOS BY WALTER SMALLING

Chavez, and the Saudi royal family. Plus, it's bad for the environment. Transportation accounts for 32 percent of total carbon-dioxide emissions in the U.S.

There is a large unmet demand for walkable urban living. While less than 10 percent of the housing stock is walkable—meaning that you can safely walk to shopping and mass transit—in most metropolitan areas, academic research has found that roughly one in three Americans would prefer to live in a walkable urban environment. That is why housing in places such as San Francisco, New York, and Leesburg's neighbor, Washington, D.C., is so expensive and has been relatively insulated from the dramatic recent drop in home values. By contrast, the automobile-dependent Washington exurbs and even inner-ring suburbs have seen dramatic drops in housing prices. Between September 2007 and September 2008, the median home price plummeted by 44.7 percent in one exurban zip code in Woodbridge, Virginia, compared to a drop of only 3.9 percent in D.C.'s Adams Morgan neighborhood, which had a similar median home price to Woodbridge before the economic downturn. This is a trend repeated throughout the country. "The indications seem to be that the bulk of this housing crisis is on the fringe," Leinberger says. "The rule

No Crosswalks Here: In Leesburg, Virginia, a city where "public safety" means limiting walkability, pedestrians must take their lives into their own hands.

of thumb is that if the average of housing in an area has dropped X, then the walkable urban places closer in have been flat over the last year or two, and the fringe has gone down 2X."

But America is still overwhelmingly a nation of drivers. Most communities are simply not designed to allow, much less encourage, any other means of getting around, and mass transit alone will not solve the problem. The way streets and neighborhoods are designed can make walking even short distances impossible. To free Americans from their cars, governments will have to implement a different set of rules on land use, parking, zoning, and other sexy topics—and not just in the bastions of bike paths where progressive leaders tend to congregate. As Joel Kotkin notes in *Next American City*, "Since 1950, more than 90 percent of all the growth in U.S. metropolitan areas has been in the suburbs." If the next few decades look anything like recent ones, the suburbs are where most of the new construction will be built.

The Washington, D.C., region demonstrates how suburban development can be managed—or mismanaged. Many of the inner-ring 'burbs, such as Arlington, Virginia, and Silver Spring, Maryland, have areas with mixed uses and ample mass-transit links. While their residents generally own cars, many commute to work and even go shopping without them. Farther out, into newer suburbs, transportation without a car becomes increasingly impossible, as giant parking lots and wide roads that lack sidewalks predominate. Regional, state, and even federal transportation policy has created towns like Leesburg throughout the country—towns that are simply unwalkable. I know because I tried.

IN OCTOBER, I DID the unthinkable and went to stay in Leesburg, where my grandmother lives, without a car. After taking the commuter bus to Leesburg from Washington, D.C., I arrived in a massive gravel parking lot. Everyone jumped into a car and drove home, except for one or two bicyclists and a few people waiting to be picked up. For the car-less, these commuter buses are the only way into or out of Leesburg, save for one "reverse commuter" bus that goes to the nearest Metro station, roughly 40 minutes away. No trains stop here, no Greyhound station is in sight, and no buses come on the weekends. A cab to the Metro costs at least $60. Walking? Forget about it. The sidewalks are narrow and poorly lit, and cars whiz by without a buffer lane of parked cars to slow them down. It's enough to make pedestrians feel downright unsafe.

Even as Leesburg notionally committed to a more responsible land-use pattern in its 2005 town plan, it continues to zone undeveloped land at low densities. The standard in Leesburg is four units to the acre, although it is sometimes lower—in contrast with a typical city block, which would have approximately 25 buildings per acre and possibly far more units if they were subdivided into apartments. Yet Leesburg actively discourages developers from building more sensibly. That is because the Town Council fears that dense plans will bring costly infrastructure needs, such as sewers, and that great suburban boogeyman, traffic. In 2007, one developer bought the right to build a mix of town homes and detached houses on an undeveloped property by paying to expand the arterial road that will serve it from two lanes to four. So to build denser in Leesburg, you need to give the town exactly more of what it does not need: wider roads.

The roads are already so wide that crossing any one of them is a life-threatening act—a game of waiting for the right moment to run out into the road when no cars are coming, then stopping midstream and dashing back as gigantic pick-up trucks and sport-utility vehicles emerge from around the bend at alarming rates. It's like playing Frogger with your body. The problem of pedestrians attempting to cross these roads in Leesburg is so severe that the town government has taken up the issue. The main strip-mall shopping area—home to a Wal-Mart and outlet stores—sits on a six-lane highway bypass with vast distances between pedestrian crossings. People who live directly across the road have been known to run across the street rather than hike to the nearest crosswalk. The town decided to curb this threat to public safety not by making it safer to cross but by putting up a roadside fence. So now people jump over the fence to get to the Wal-Mart across the street.

This non-solution is what people want, at least according to Leesburg's mayor, Kristen C. Umstattd, a red-haired, bespectacled attorney who has been on the Town Council since 1992. "Making Leesburg denser, while it is something that is promoted by a lot of urban planners, is something that citizens of Leesburg have been very much opposed to," she says. "What people like about Leesburg is a small-town feel. They come here because they don't want to live in a highly dense urban area." It is an article of faith among right-wing ideologues that the growth of the exurbs proves that Americans are a lawn-loving people. As David Brooks writes in his 2002 *Weekly Standard* essay, "Patio Man and the Sprawl People," people move to cities like Leesburg "for the same reasons people came to America or headed out West. They want to leave behind the dirt and toxins of their former existence. ... They want to move to some place that seems fresh and new and filled with possibility."

IT IS AN ARTICLE OF FAITH AMONG RIGHT-WING IDEOLOGUES THAT THE GROWTH OF THE EXURBS PROVES THAT AMERICANS ARE A LAWN-LOVING PEOPLE.

But there is little empirical data to back that up. Demographers and economists will tell you that main drivers of exurban growth are market pressures, such as the high price of living in denser, closer-in suburbs and cities and the increasing presence of jobs in far-flung office parks—not an aesthetic preference for "fresh" places like modern-day Leesburg. Never mind that the exurb's highways and parking lots look and feel nothing like a bucolic small town.

It is understandable how Leesburg officials concluded that what people want is an automobile-dependent environment. Suburbanites are steeped in driving culture and often don't understand that piecemeal solutions, such as adding more parking or widening roads, only compound their dependence on cars. "One of the complaints we get is that people move in, they have a two-car garage, that counts for two parking spaces and a short driveway that could maybe fit two more, so they could maybe get four spaces, but what happens is the garage gets filled with the lawnmower and stuff and so they park in the driveway," says Terry Laycock, an administrator in the Loudoun County Office of Transportation Services. "So when they have visitors they park in the street, and somebody is complaining because they say, 'That's my parking space in front of my house.'" But in a town where people could walk a mile, instead of driving it, you would avoid the whole problem in the first place. When members of Leesburg's Town Council pushed to eliminate drive-through banks to improve the pedestrian experience, Umstattd says, "we had a fairly outraged citizenry, especially the moms in minivans with small children who wanted to keep everyone in the van and go through the drive-through." Leesburg residents may say that what they want is to keep the drive-throughs and not have to worry about their small children wandering out into a parking lot when they park to go into a store, but if they lived in a walkable community, where the bank was not in a giant, unsafe parking lot, the question would be moot.

In recent years, the City Planning Department has embraced slightly more forward-looking mixed-use developments, which have all been passed by the Town Council (even though Umstattd has voted against every major rezoning in Leesburg). Slowly, suburban developers are beginning to catch up to the increasing demand for living in a place where you don't have to drive to the store to buy a gallon of milk.

Leesburg has rezoned several commercial areas in recent years to allow developers to put in some housing. But Umstattd sees such zoning decisions as leading toward the blight of overcrowding. "Every time we approve a new residential unit, we're putting 10 additional vehicle trips per day on the roads," Umstattd says. "And roads are a big problem here." By "problem" she means that they are too heavily trafficked, not that they are inhospitable to pedestrians. Umstattd claims she would prefer to see the space set aside for offices to reduce the daily traffic in and out of Leesburg by allowing more residents to work in the town. But in fact, allowing mixed-use developments should mean slightly *fewer* average trips per person because those people can walk to shopping. Driving to work is not the only kind of driving people do. Many residents—retirees, telecommuters, homemakers—don't commute to work at all, but they do run errands.

Umstattd notes that the developments she voted against would not have successfully replicated downtown Leesburg, anyway. And she's right. The new developments set aside one

area for residential use and another for commercial; they are not vertically integrated like a traditional downtown, with a store on the ground floor, an office on the second floor, and an apartment on the third. "I think the downtown is very charming, so if you were to have new development that is what I'd want to see," Umstattd says. But she, like every Leesburg and Loudoun County planning official that I interviewed, seems to be waiting for private developers to propose this type of development—she doesn't believe the Town Council should make it mandatory.

Despite Umstattd's defeatist attitude, not every exurb is as sprawling and unwalkable as Leesburg. Loudoun County planners need only to look to another D.C. 'burb to see what's possible when development happens differently.

DEVELOPER JOE ALFANDRE built Kentlands, a landmark exurban development in Gaithersburg, Maryland, 20 miles north of D.C., because, he says simply, "I'm not enamored with subdividing strip suburban development." He hired Duany Plater-Zyberk, the nation's leading firm for "new urbanist" design, which prioritizes the sort of mixed-use, walkable-town development that persisted for centuries but was abandoned in the 1950s. Since opening 20 years ago, Kentlands has become the most desirable place to live in its town.

Unlike Leesburg, you can get to Gaithersburg on weekends without a car, so I went on a brisk but sunny Saturday in November. From the Gaithersburg Metro station, I switched to a bus—it comes every half hour and costs under $2—and rode out to Kentlands. The bus has several stops around the development. Upon getting out at the first one, I immediately noticed a radical difference from anywhere I had been in Leesburg, save for its historic downtown. There were people! Not just people inside their cars or houses but outside jogging and walking their dogs on the sidewalks.

Much of Kentlands is taken up with large, expensive-looking, single-family homes. But they are close together, so that the town has sufficient density to support walking and transit use. The houses vary in architectural style, but they have one common quality: They are not hidden behind a giant garage. Many of the homes have ample parking, but it is set either behind the house in an alleyway or alongside the house down a narrow path. Likewise, every tree-lined block has a sidewalk on both sides. There are cars parked along the road, creating a buffer between people and the moving cars and helping to slow traffic. The neighborhood is filled with little pocket parks and playgrounds, and I met parents with young children playing in them. The town has a central square lined with elegant brick row homes around a green space with a public swimming pool. Noticeably absent are the gigantic parking lots that make walking an unlikely choice in most suburbs.

In addition to demonstrating the commercial viability of new urbanism, Kentlands is a case study in the symbiotic relationship between walkable street design and mass transit. The construction of a walkable community generated such demand for transit that one existing bus was quickly rerouted to serve Kentlands and another was created in 1997. "Kentlands wasn't built around transit, but once it was built, it was so dense that it has easily adapted to that," Alfandre says.

The most essential innovation of Kentlands is that it contains shopping integrated with housing. Tiffany Donovan, a mother walking her children home from the playground, tells me that she walks with her husband to a French restaurant "because who wants to drive home after a glass of wine?" Most parents also walk their children to the local elementary school (which is named, naturally, after environmentalist author Rachel Carson). "It's a great place to grow up," says Matt Ficke, a University of Maryland student who grew up in Kentlands. "Everyone walks everywhere. It's perfect for trick or treating because all the houses are close together."

IN KENTLANDS, THERE WERE PEOPLE! NOT JUST PEOPLE INSIDE THEIR CARS OR HOUSES BUT OUTSIDE JOGGING AND WALKING THEIR DOGS ON THE SIDEWALKS.

There are not only families with children in detached homes, there are single people in their 20s living above stores and elderly people living in the taller apartment buildings. This kind of mixed-age development will be in especially high demand as demographic trends, such as the empty-nests of aging baby boomers, lead to an increase in childless households. "Seniors are giving up their car keys but not moving to retirement homes," says Parris Glendening, a former governor of Maryland who runs the Smart Growth Leadership Institute.

Meeting this challenge is much easier in Kentlands than in the outer reaches of Loudoun County. Indeed, the Leesburg area is struggling to provide transportation for its senior citizens. "Some of the people [in eastern Loudoun County] bought their houses back in the '70s," says Nancy Gourley, who runs commuter services for the county. "They are older now, and they don't drive as much, but they want to stay in their home. That is one of the first pieces we're looking at in the transit plan is trying to get more transit in those communities." County officials hold out hope for a planned extension of the Metro into Loudoun, and they frequently mention it when asked what they are doing to increase alternatives to driving. But the Metro will stop about eight miles short of the center of Leesburg and will not do much to free its residents from their cars. For somewhere to be livable without a car, the mass transit must link walkable areas. That is not true of the residential towns in Loudoun, nor is it true of some of the office-park clusters in Fairfax County where many of its denizens work. If suburban commuter trains and buses run through areas that are hostile to walking, they only remove one driving leg of a commute—they don't eliminate the need for a car.

Ideally, trains should be built in advance of, not after, residential and commercial development. That is how the subways were built in New York City a century ago, where they extended to the then-rural far reaches of the outer boroughs while the commuter train went to small towns that are now big suburbs. This allowed dense development nodes to spring up around the

With A Little Planning: By prioritizing mixed-use buildings and walkability, Kentlands has become the most desirable place to live in Gaithersburg, Maryland.

train stations. As a result, New York has the best mass-transit use in the nation: 57 percent of New York City commuters use mass transit to get to work, whereas 85 percent of the nation's workers need a car to get to their job. New York is also proof that traffic is good: Many of those commuters would drive were it not for Manhattan's density and resulting traffic snarls during business hours.

One lesson from Northern Virginia is that trains should be built below ground and along commercial streets. In the inner-ring D.C. suburbs of Arlington County, where the Metro's orange line runs below ground, there are walkable mixed-use areas around the Metro stations. But the next county out, Fairfax County, decided to instead build its section of the orange line more cheaply and easily: along the highway. Instead of clusters of apartment buildings and office towers with stores on the ground floor, the Fairfax Metro stations are surrounded by massive parking lots. "If you look at an aerial of these two counties," Glendening says, "the development in Arlington took a dramatically different approach than it did in Fairfax. Arlington officials had courage and did the right thing."

Cities and counties on the urban periphery can choose to be like Kentlands rather than like Leesburg, but it requires proactive effort. They need to zone for and give developers incentives to build at higher density, not at four units per acre. They need to zone areas for a mix of uses, not separate residential and commercial activities. They need to mandate that any new road be built with a sidewalk on both sides and that it have street parking to slow traffic and create a buffer zone for pedestrians. They need to require that commercial buildings face the major streets and sit at the front of their property, with parking tucked away behind the building. Most important, they must impose maximum limits, rather than minimum requirements, on parking. They could also put Kentlands-type zoning restrictions in place on land that is not yet in any developer's sights. That way, when developers come, they will have a choice: build a walkable, eco-friendly environment, or build nothing. Will the moms in minivans still complain about having to get out of their car to go to an ATM? Sure. But they may appreciate that their children can walk to school safely.

In many ways it is already too late for Leesburg. Tearing down its existing developments would not be practical. "Back in the 1980s and '90s Leesburg was really on the edge of civilization. Those kinds of questions weren't being asked by council members," Umstattd says. "What the developers said they wanted, that's what councils gave them."

The edge of today's civilization could be tomorrow's exurb. Despite the current state of the economy, plenty more Leesburgs are likely to be in America's future. According to a study by the Brookings Institution, half of our built environment in 2030 will have been developed from 2000 onward. We know the next generation of exurbs is coming, and we'd better plan for it. **TAP**

***Ben Adler** is an urban leaders fellow at* Next American City. *His writing on urban and transportation policy has also appeared in* The Atlantic *and* The Nation, *among other publications.*

Rights Versus Rites

When it comes to the lives of women around the globe, do local traditions ever trump human rights?

BY MICHELLE GOLDBERG

On Feb. 6, 2007, two women, both of whom had been circumcised in Africa, met in the conference room of a small foundation on Fifth Avenue in New York City for a highly unusual debate. It was the fourth annual International Day of Zero Tolerance of Female Genital Mutilation, an occasion for events across the globe dedicated to abolishing the practice. The gathering drew about 30 women, half of them African immigrants from countries including Senegal, Sudan, and Kenya, where female circumcision is common. Several of them were shocked to realize that, despite the name of the event, this wasn't so much a discussion about *how* female circumcision can be eradicated as about whether it *should* be.

The custom of cutting off all or part of girls' external genitalia—deeply ingrained in large swaths of Africa and parts of Asia and the Middle East—obviously has its defenders, as evidenced by how tenaciously it has endured in the face of a global campaign to eliminate it. Indeed, as the anthropologist Richard Shweder argues in a much discussed 2003 paper, "It is a noteworthy fact that in at least seven African nations 80–90 percent of the popular vote would probably vote against any policy or law that criminalizes the practice of genital modification for either boys or girls." Yet apologists for female genital mutilation (FGM) don't interact much with the global women's movement, which is generally no more inclined to debate the merits of the practice than it is to ponder the upside of rape or wife beating.

That's what made the New York event so unique, and so charged. At first glance, the two speakers seemed to symbolize the dichotomy between modernity and tradition, cosmopolitanism and cultural authenticity. Fuambai Ahmadu, the American-born daughter of a Sierra Leonean family, wore knee-high leather boots under a stylish rust-colored skirt. A postdoctoral fellow at the University of Chicago with a Ph.D. from the London School of Economics, she looked younger than her 40 years. Beside her was Grace Mose, regal in a red African tunic, matching skirt, and head wrap. Her perfect English was deeply accented by her native Kenya, where she had grown up in an Abagusii village in the country's southwest region. It was easy to imagine her as a champion of the line of midwives who have made their living cutting girls since the beginning of recorded history, women who are now being jailed in some countries for practicing a trade that once brought them money and pride.

But it wasn't that simple. Ahmadu, not Mose, is the high-profile defender of female circumcision and the role it can play in inducting African girls into their societies. "My sitting here is a perfect example that female initiation can have a place in a global society," she insisted. "I don't see that initiation is somehow an impediment to girls' development." Circumcision and all that it represents in her culture, she said, "is an important source of my social identity. It's what links me with my mother, my grandmothers, my aunts, my female ancestors. It celebrates our history, our connection."

As she spoke, Mose, a fervent campaigner against the practice, glared at her. Unruffled, Ahmadu continued, arguing that in Sierra Leone, "female circumcision is empowering." Toward the end of the debate, a Senegalese woman, incensed by Ahmadu, stood up and said, "I really feel very frustrated seeing an African sister defending female genital mutilation." A few people applauded. She herself, she said, had not been cut and saw the practice as indefensible. "There is one thing we have to clarify. We have used here the term 'female circumcision,' which is a term that I do not like at all. Because it puts together two things that are totally different. We [should] talk about female *mutilation*. Why? When we circumcise a boy, that is *skin* that is cut off. Now when a female is, I'll say, excised, that is the whole part that is taken out. That is completely different!"

Ahmadu had been calm and poised all evening, but there was an undercurrent of controlled anger in her voice as she responded. "I am glad that you referred to me as sister. I believe that we are both sisters," she said. "In Senegal, in Gambia, in my country, Sierra Leone, there are words that we can use, as circumcised women, against uncircumcised women that are *very* insulting and very nasty and very offensive." Comparing these slurs to the word "mutilation," she continued, "I may be different from you and I am excised, but I am *not mutilated*. Just like I will not accept anybody calling me by the n-word to define my racial identity, I will not have anybody call me by the m-word to define my social identity, my gender identity."

Ahmadu sees herself as speaking for African women who value female genital cutting but are shut out of the rarified realms of international civil society. "The anti–FGM activists have access to the media, and they have enormous resources, so they're able to influence the media in such a way that most of the women who support the practice cannot," she told me later that evening. "Even if they did, a lot of them are illiterate, so they can't even speak the necessary language, and they cannot respond to charges of backwardness and barbarity."

A global sophisticate, Ahmadu is an unlikely tribune for their voices, but she's also a symbol of the issue's complexity. In concert with the United Nations, the United States has been committed to eliminating FGM since Bill Clinton's administration. Now, Barack Obama is signaling a renewed commitment to international women's rights—in March, he appointed the first-ever ambassador-at-large for global women's issues, Melanne Verveer—while Hillary Clinton is making women's rights a priority at the State Department. But even when it's just, the project of trying to change other cultures is complicated, bound to elicit backlashes and cries of imperialism.

ANTHONY RUSSO

Like international debates over family planning and women's empowerment, the controversy over genital cutting is about who has the right to intervene in the sexual practices of others. In the campaign to eradicate female circumcision, a powerful alliance of rich-country donors and poor-country activists are telling traditional societies that they must change for the sake of their girls. They are trying to eliminate a practice that causes many women incalculable agony but that millions value deeply, in part for its role in warding off sexual chaos. International institutions are pressuring national governments to supersede the child-rearing decisions of families and thus protect girls from harmful traditions. Given that around 3 million African girls are cut each year, the power of global norms to shape individual destiny is being tested on a massive scale.

FOR MANY DOCTORS WHO TREAT African women, there's little question about the negative effects of female circumcision—which can refer to anything from clitoridectomy to infibulation, in which the external genitalia is cut off and the two sides sutured together, leaving just a small opening for urination, then torn apart when a girl gets married. "It is painful and destructive," said Nawal Nour, a Boston gynecologist and one of the United States' leading medical experts on female circumcision. A graduate of Harvard Medical School, Nour is the founder of the African Women's Health Center, the country's first gynecological clinic devoted to African immigrants. She treats hundreds of infibulated women, mostly from Sudan and Somalia, although she has patients from other parts of the continent as well. Like some defenders of the practice, she avoids the term "female genital mutilation" because, she said, "most of the women I treat don't consider themselves mutilated." Many consider infibulation beautiful. When they first realize American women are almost all uncircumcised, they tend to react with pity and disgust, not envy.

"Part of what I do here in the United States is to bring down that sensationalistic perspective—oh my god, these are barbaric individuals, how horrific, how can parents do this to their daughters," Nour said. "When you truly understand the issues of female circumcision, it's a tradition, it's a rite of passage, it's something that is celebrated in a lot of these places." She understands why people like Shweder oppose blanket condemnation. "But they go a step too far, because I see the women who do have long-term complications. These long-term complications can go from minor, chronic vaginal infections to inability to penetrate, to have intercourse, to infertility, to very painful intercourse, to inability to deliver a baby," she said. "You can't tell me that they don't have chronic issues."

In Africa, the practice of infibulation has been tied up with globalization for hundreds of years. The political scientist Gerry Mackie has speculated that it derives from an area in what is now northern Sudan and that it spread into other parts of Africa via the slave trade, becoming less severe as it diffused. The practice predates Islam and isn't sanctioned by many orthodox interpretations of the religion; it is mentioned nowhere in the Koran. Nor is it practiced exclusively by Muslims in Africa. Nevertheless, in large parts of the continent, Islam and female circumcision—especially infibulation—have been deeply intertwined. Closely tied to the conservative Muslim obsession with female virginity and chastity, it's meant to attenuate women's sexual desire and provide a physical barrier against premarital sex.

If one wave of invaders brought FGM to sub-Saharan Africa, another has long been trying to end the practice. British colonialists in the early decades of the 20th century tended to see female genital cutting as a hideous, heathen custom to be

eradicated by their civilizing mission. Their attempts to ban it in Kenya elicited furious opposition, turning FGM into a badge of anti-colonial authenticity. This legacy is often used to tar efforts to eradicate the practice as a kind of neocolonialism or secular missionary work. "These days at least two things have changed since the 1920s and 1930s in Africa: anesthesia is more available, and the 'civilizing' missionary efforts of militant Protestants have been supplemented and even supported by the evangelical interventions of global feminists and human rights activists," Shweder writes.

Yet many African feminists bristle at the idea that opposition to excision and infibulation has been imposed on them by Westerners. Circumcision, Mose insisted, is meant to instill humility and submission in women. "We are not opposing it because we are following what the West is telling us," she said during her debate with Ahmadu. "It's because of our own personal experience. There is no Western woman who came to tell me, 'This practice is painful.' No. That is an experience that I went through, and I understood how painful it was. … No woman should have to deal with that."

WHAT PUBLIC-HEALTH OFFICIALS CALL "HARMFUL TRADITIONAL PRACTICES" ARE IN FACT THE NORMS THAT IMBUE EXISTENCE WITH ORDER FOR MANY PEOPLE.

MORE THAN IN ANY OTHER region in the world, in Africa the politics of sex and gender are bound up with the institutions of global governance, which are themselves under pressure from the women's movement to intervene against discrimination. Humanitarian activist and Harvard fellow Alex de Waal has described how African AIDS activists have been able to work through international nongovernmental organizations to affect local policy: "Blocked from direct routes of access, African activists meet with their Western counterparts, who have access to policy makers in Washington and Brussels, who in turn squeeze African governments."

His analysis is equally true for feminists. African activists have been able to leverage international concern about FGM to press their leaders—most of them dependent on foreign aid and thus eager for global goodwill—to respond. In July 2003 the heads of government of the African Union countries approved one of the world's most progressive treaties on women's rights, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, often referred to as the Maputo Protocol, after the city in Mozambique where it was negotiated. Though little noticed in the United States (or among the vast majority of African women), the Maputo Protocol was a major achievement for the continent's women's rights activists. It prohibited "all forms of female genital mutilation," outlawed child marriage and forced marriage, and called for the legalization of abortion in cases of rape, incest, and threats to the life and health of the mother, making it the first international treaty that affirms abortion rights.

The protocol went into effect in 2005. Gambia, which had initially registered reservations, ratified it fully in April 2006. The country's president had once accused the West of spending millions to undermine African culture and Islamic values, proclaiming in 1999 that FGM "is part of our culture, and we should not allow anyone to dictate to us how we should conduct ourselves." The government later took a new line. "The cultural beliefs of the past may not be good anymore, because we now know that they are not too good for our health and well-being," Gambia's secretary of state argued at the National Assembly in 2006. Of course, in Gambia and other countries that have ratified the Maputo protocol, the practice continues.

Opposition to anti–FGM efforts has been particularly strong in Ahmadu's native Sierra Leone, where, according to the United Nations, 94 percent of women have had clitoridectomies. The link to tradition is so valued that politicians have sponsored mass circumcisions to garner votes. This February, Sierra Leonean women who support FGM kidnapped four female foreign journalists whom they believed to be hostile to the practice. According to the BBC, the reporters were stripped and marched through the street in the city of Kenema before being released.

For outsiders, of course, it seems baffling that women would cling to such traditions. Straddling cultures, Ahmadu is in a unique position to explain the phenomenon. Her family comes from the Kono ethnic group, which lives in northeastern Sierra Leone. For the Kono, circumcision is at the center of a girl's initiation into Bondo, a powerful female secret society (initiation into the male counterpart, Poro, also involves circumcision). "Among the Kono, Bondo is part of life; it's part of the culture," she said. "So in a sense it's your right. It is your privilege. And if you don't, then you are being denied your right. For me, it was something I was very excited to belong to … it was a question of when, not if."

For Ahmadu, the time came when she was a 22-year-old senior at George Washington University. When her family decided to bring her and her 8-year-old sister to be initiated in their ancestral village, she went willingly. It was a discombobulating, sometimes thrilling and physically agonizing experience, and one that she now values deeply. Ahmadu reminds us that what public-health officials call "harmful traditional practices" are in fact the very texture of life for many people, the rituals and norms that imbue existence with order and purpose. To talk to her is to begin to understand why a practice that causes so much pain nevertheless remains so entrenched and so zealously defended by its ostensible victims.

ALL THE SAME, FOR AHMADU circumcision was a choice, one she made as an adult. For the overwhelming majority of girls who undergo it that is not the case. Most only have such options when a cluster of deeply rooted values, beliefs, and hierarchies begin to deteriorate, a process that causes anguish and panic for some and offers the promise of liberation to others. The fact remains that, in general, the more alternatives girls have and the more exposure to the outside world, the less likely they are to opt for these old ways.

Nowhere in the world is that more clear than at Kenya's Tasaru Ntomonok Girls Rescue Center, a shelter that houses dozens of Masai girls who have fled their villages in their desperation to remain intact. Located on the edge of Narok, a dusty market town in Kenya's fabled Rift Valley, Tasaru is testament to the lengths to which some girls will go to escape painful traditions once they glean the merest hint of a way out.

Agnes Pareyio, the founder of Tasaru Ntomonok, is a Masai woman in her early 50s with an open, friendly face and a gap where her two bottom middle teeth should be, a traditional Masai body modification. Other than that, when I first met her, the only outward sign of her ethnic heritage was the beaded bracelet she wore. Her hair was braided and coiled in a bun. When she goes into the surrounding villages she sometimes shocks other Masai by wearing trousers. Pareyio grew up in an ordinary Masai village, though she attended boarding school, where she had a friend from a community that didn't circumcise its daughters and was horrified to hear about the practice—and planted doubts in Pareyio's mind. During the December holiday when she was 14, Pareyio returned home from school to find her family preparing a great feast. She asked her mother what was going on, and she replied, "All these people are here because there's a ritual that is going to be performed." Pareyio realized what they were planning and told her mother that she refused to let it happen. But eventually, under family and community pressure, she agreed to go through with it. Her legs were pried open and her genitals slashed off. Afterward, an old woman felt the wound to make sure nothing was left. The pain was horrible, and it came back twice as bad every time she urinated. She has regretted it her entire life.

Luckily, she was sent back to school, and her parents didn't marry her off until she was 18. Soon after her marriage, Pareyio became a local women's rights activist and, before long, a campaigner against female circumcision. To demonstrate the consequences of the practice, she had a local woodworker make a model of the female reproductive tract with detachable parts, then walked with it from village to village, talking to any group that would listen. She spoke about shock, pain, and hemorrhaging and explained how circumcision complicated childbirth.

Soon, something remarkable happened—girls who had heard her started running away from home, trekking alone through the bush or hopping on buses to seek Pareyio's help in escaping the fate tradition had prepared for them. Pareyio found them temporary housing and enrolled them in school while looking for something more permanent. In 2000, playwright-turned-global-activist Eve Ensler (of *Vagina Monologues* fame) was touring Kenya when she saw Pareyio in the field, doing a presentation in a village with her wooden model. Enormously impressed, Ensler started fundraising for a shelter. In 2002, Tasaru Ntomonok—which means "rescue the women" in the Masai language—was born.

Early on there was considerable rage toward Pareyio. Many in the local Masai community "were very much against Tasaru. They say you are going against the tradition of the people," said Hellen Kamaamia, a local teacher who serves as Tasaru's treasurer. Men typically pay for their wives with cattle, the Masais' traditional source of wealth; fathers who can't give their daughters in marriage are literally poorer for it. Furious men—fathers or would-be husbands—would sometimes show up outside Tasaru's door with swords, demanding their girls back, and Pareyio would have to face them down. "Agnes is bold," Kamaamia said with obvious admiration.

Despite her stalwart rejection of harmful traditions, the last thing Pareyio wants is for the girls at Tasaru to end up alienated from Masai culture. Instead, she wants Masai culture to change to embrace strong, educated women. Female circumcision is the way girls have traditionally been initiated into Masai womanhood. Pareyio sees much of value in the initiation process, and she's trying to keep it alive without the cut. Each August groups of girls come to Tasaru for an alternative rite-of-passage ceremony. Slowly, Pareyio's community has started to see her as a leader rather than a threat.

EACH AUGUST, GIRLS COME TO TASARU FOR AN ALTERNATIVE RITE-OF-PASSAGE CEREMONY, AN INITIATION INTO WOMANHOOD WITHOUT THE CUT.

Ahmadu's argument, that to decry circumcision is to decry her very culture, is a persuasive one. Liberals have many reasons to sympathize with people struggling to hold on to their ways of life in the face of the hegemonic steamroller of globalization. But they have even more reason to sympathize with people like Pareyio who are fighting for individual rights in societies that demand subsuming such rights to tradition and myths about sexual purity. After all, even if relativists like Shweder truss them up in fashionable thirdworldism, such demands are the very essence of reactionary conservatism.

No outsider could ever create the kind of change Pareyio has, but Pareyio couldn't have had such a profound impact without outside help. Ultimately, she offers a model for President Obama and Secretary of State Clinton as they try to expand women's rights around the world. Pareyio's work is possible because of the global system that pressured Kenya to change its laws, and because of the grass-roots funding that enables her to help the girls in her community. The United States needs to work on both levels—at the macro-level of U.N. conferences and international law and at the hyper-local level where only people who are really part of the community can make a difference. To support people like Pareyio—as well as those fighting to implement the Maputo Protocol or working against draconian abortion bans or the terrible iniquities of Sharia law—is to reject relativism. It is to believe that other cultures, like our own, can change in necessary ways without being destroyed. **TAP**

***Michelle Goldberg** is a* Prospect *senior correspondent. This article is adapted from her book,* The Means of Reproduction: Sex, Power, and the Future of the World, *published by* The Penguin Press *© 2009. Reprinted here with permission.*

Culture & Books

"Consider the Flynn Effect ... each generation scores as much as 25 points higher on IQ tests than the preceding generation."

— PAGE 57

20TH CENTURY FOX / THE KOBAL COLLECTION

***Norma Rae*, 1979:** Labor's recent pop-culture icons are few and far between.

THEATER

EXIT, STAGE LEFT

A new collection of plays revisits a moment when the narrative power of organized labor was at its zenith.

BY RICHARD BYRNE

At the present moment of Democratic ascendancy and bitter economic tidings, one might expect organized labor to be riding higher in power and esteem than it has in many decades. But fair political winds, rising unemployment, and populist rage have yet to coalesce into action that levels the tilted playing field between corporations and unions. The most popular explanation is that unions don't pack the political punch they once did, and the numbers don't lie. Back in 1975, about 22.2 million Americans belonged to a union. More than three decades later, the number has tumbled to 15.6 million.

But it's fair to ask if a pronounced cultural shift away from unions helped accelerate that decline. Organized labor will always be outspent by its corporate opponents, but its force multiplier has always been its powerful narrative: pervasive economic injustice vanquished by collective action. It is a story rooted in anger—but also in an optimism that history bends toward justice. In labor's best-case scenario, a free press and a popular media (songs, literature, movies, plays) attract and aggregate the individual injuries wrought upon workers and forge them into a powerful shared narrative.

That narrative has long been under assault. But for three decades, the other side has been winning so lopsidedly as to undermine all optimism. (Ronald Reagan's crushing of the 1981 air-traffic-controllers strike is the most pivotal episode in that legacy.) The media have transitioned from raking up muck about businesses to sucking up for access to corporate suites. And when the press does cast its eye on the unions, its gaze falls largely on corruption and squabbling.

Unions have taken a hit in popular media as well. What was the last great pop-culture moment for American labor? You'd have to look back before Reagan's election to the 1979 film *Norma Rae*, for which Sally Field won a best actress Oscar in her role as a heroic textile worker who organizes her factory. Norma Rae's raising of the "UNION" sign in her cacophonous workplace—and her forcible ejection from the factory, kicking and screaming, into a police car—is the last iconic union image we have in American popular media.

Would *Norma Rae* get the green light from corporate Hollywood today? The question seems almost laughable. The dismal present has prodded progressives—artists and scholars, in particular—to look back in hope (or sorrow or anger or nostalgia) to a moment when organized labor and American popular culture had more synergy. The current economic duress in this country only sharpens the curiosity: What did labor say when the cultural momentum was on its side and readily drew legions of artists to articulate its narrative?

The golden cultural moment of the late 1920s and 1930s is a reminder of the possibilities of a synergy between labor

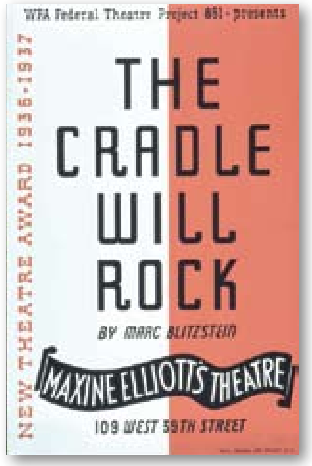
and art—and a possible road map to the future. American theater in particular took up labor's cause with vigor and imagination in that era. Filmmaker and actor Tim Robbins captured that moment in his 1999 film, *Cradle Will Rock*, taking its (abridged) title from the confrontational labor musical written by Marc Blitzstein in 1937, which helped to hasten the demise of the Federal Theatre Project.

The project—a branch of the New Deal's Works Progress Administration that put unemployed theatrical workers back on the stage—was always a delicate balance between the dramatic freedoms of the stage and the political sensitivities of legislators. And the project's decision to produce Blitzstein's blunt, incendiary song cycle, set in a unionizing "Steeltown, U.S.A," with a hero named "Larry Foreman" and an industrial magnate villain named "Mr. Mister" provoked the federal government to strangle *The Cradle Will Rock* with red tape. But directors Orson Welles and John Houseman were determined that the controversial show must go on without the government's support, and they saved the musical.

That era's other iconic work was Clifford Odets' 1935 one-act play, *Waiting for Lefty*, a lusty, brawling, theatrical agitation on behalf of the unions. Odets' early plays were immensely popular and influential, though their loquacious sentimentality has not aged well. Filmmakers Joel and Ethan Coen, for instance, mercilessly mocked Odets' early work in their 1991 film, *Barton Fink*. But two generations of writers in theater, movies, and television dined out on Odets' slangy music. (Odets also crafted the comprehensive and pivotal rewrite of perhaps the greatest Hollywood script of the postwar era, 1957's *Sweet Smell of Success*.)

That music is in full voice in *Lefty*, which ping-pongs between a contentious meeting of cabbies considering a strike and stark dramatizations of the private despair that fuels collective action. One scene involves the sexual humiliation of a cabbie by his girlfriend. After he blames his boss for their piteous situation, she uses the excuse as a weapon: "I never saw him in my life, but he's putting ideas in my head a mile a minute. He's giving your kids that fancy disease called the rickets. He's making a jellyfish outta you and putting wrinkles on my face."

Odets shamelessly ups the ante: snitches, anti-Semites, Red-baiters, an industrialist trying to lure a worker into a career making poison gas. By the time *Lefty* arrives at its closing crescendo, there's murder and a storming of the stage by the cabbies. The stage directions call for the audience to join in the hacks' cry of "STRIKE! STRIKE! STRIKE!!!"



SPECIAL COLLECTIONS / GEORGE MASON UNIVERSITY LIBRARIES

The plays in* Staged Action *are a reminder of the high stakes of labor organizing in an era when the violent suppression of unions was commonplace.

BELOW THE SURFACE OF THESE MOST memorable collaborations between labor and the theater, however, is a teeming mass of lesser-known plays that proudly wore the union label. Lee Papa, an assistant professor of English at the College of Staten Island/CUNY, has just edited a new collection of drama from the era, *Staged Action: Six Plays from the American Workers' Theatre* (Cornell University Press). Papa deliberately excludes *Waiting for Lefty* from his collection, as well as *The Cradle Will Rock* and labor-related plays associated with the Federal Theatre Project. Rather, his aim is to excavate plays long out of print or trapped in archives, with a particular emphasis on works that straddle and subvert traditional notions of race and gender—particularly the pivotal role of women in labor—or works whose pedagogical functions in labor colleges and unions were at least as important as their appearance on traditional stages.

Taken together, the plays in *Staged Action* are a reminder of the high stakes of labor organizing in an era when the violent suppression of unions was commonplace. Five of the six plays are haunted by death and guns. The Ku Klux Klan shows up in some of these works, too, as menace or as grotesque comic relief or both. The plays are also full of song; it is the glue that binds together the communities represented onstage and instills hope in the characters that inhabit them.

In many cases, that music is whistling past the graveyard. The courage of organizing in the face of violence is at the forefront of many of these plays, often uncomfortably so. Contemporary sensibilities—laser-focused on moral ambiguities and conflicted impulses—are apt to recoil at the West Virginia mine town imagined by Russian immigrant Bonchi Friedman in her 1926 play, *The Miners*, or the California prison cells depicted in Upton Sinclair's 1928 play, *Singing Jailbirds*. These are spaces where heartstrings are never plucked for their own sake, and deaths are bloody martyrdoms that inspire further organizing.

Papa's collection includes two plays that do not traffic in bruising and fatal rabble-rousing, and despite their political incorrectness and dated references, these less-serious works feel the most familiar. One of them, *Pins and Needles*, is a satirical musical revue staged in 1937 by the International Ladies Garments Workers Union. This cycle of songs is a left-wing take on the current events of its era (labor, fascism, banking, feminism) and was so popular that it settled in for a more than three-year run on the Broadway stage with songs like "Doing the Reactionary" and "Vassar Girl Finds a Job." The other play, John Howard Lawson's *Processional*, demonstrates how labor's narrative could forge new directions on the stage. Written in 1925, *Processional* is a flawed but ebullient mash-up of jazz, burlesque, and broad social caricature set in West Virginia in the 1920s. Imagine *Matewan*—John Sayles' classic 1987 tale of labor violence in that state's mines—as done by the Marx Brothers, and then veer left and right simultaneously. Wildly innovative in its time, *Processional* is relentlessly vulgar, well intentioned, and ridiculous, though at moments such as this one, early in the play, a few lines of dialogue between a Polish worker and a black worker induce goose bumps of shame and prophecy all at once:

PSINSKI: You black fellers is always afraid.
RASTUS: I dunno; it just comes on.
PSINSKI: Guess it's in the blood; I can see your ancestors.
RASTUS: *(Trembling.)* Where? Where?
PSINSKI: A people that ain't had a fair chance, black—
RASTUS: Hush yo' mouth, someday we git a chance.
PSINSKI: Sure you will, the whole future belongs to you.
RASTUS: A black future: mebbe the coons'll be kings, mebbe yet you see a black President a' the United States—
PSINSKI: Sure... sure...
RASTUS: A cultured nigger wid a good speakin' and singin' voice!

This snippet of dialogue traces the vast distance between our own moment and the age that Papa mines for his collection—and closes it with a startling flash. *Staged Action* may not contain many practical lessons for the playwrights and writers of today, but it does rescue a valuable part of the cultural history of the left. It suggests that when our writers and artists with a popular audience do wake once again—after this three-decade slumber—to the dramas of labor and its struggles to organize in the face of powerful force, there are resources from which they may draw inspiration. TAP

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BOOKS

A STALLED COUNTERREVOLUTION

A FAILURE OF CAPITALISM: THE CRISIS OF '08 AND THE DESCENT INTO DEPRESSION BY RICHARD A. POSNER, Harvard University Press, 346 pages, $23.95

ANIMAL SPIRITS: HOW HUMAN PSYCHOLOGY DRIVES THE ECONOMY, AND WHY IT MATTERS FOR GLOBAL CAPITALISM BY GEORGE A. AKERLOF AND ROBERT J. SHILLER, Princeton University Press, 230 pages, $24.95

LORDS OF FINANCE: THE BANKERS WHO BROKE THE WORLD BY LIAQUAT AHAMED, The Penguin Press, 564 pages, $32.95

PLUNDER AND BLUNDER: THE RISE AND FALL OF THE BUBBLE ECONOMY BY DEAN BAKER, PoliPointPress, 170 pages, $15.95

BY ROBERT KUTTNER

THERE IS NO SHORTAGE OF BOOKS attempting to sort out the dynamics of the great financial collapse that began in the summer of 2007. Since we are still in an early phase of the crisis and don't yet know whether it will rival the Great Depression in its depth and duration, all verdicts remain provisional. But rather in the spirit of the 1952 presidential campaign's arguments over who lost China, the battle is already on to define who lost the economy and what to do next.

It's clear that deregulation of finance played a leading role. However, the right is already marketing a counter-story that the crash is actually the fault of government regulation. You can read this narrative daily in the editorial pages of *The Wall Street Journal*. Surprisingly, one of the nation's leading conservative intellectuals is not buying the story. Judge Richard Posner is among the most prolific (and irritating) of the University of Chicago law-and-economics scholars who helped entrench the markets-über-alles paradigm in American academic thought. But Posner has managed to write a compelling book on the crash, *A Failure of Capitalism*, indicting the major role played by financial deregulation—though without ever acknowledging that he was one of its intellectual fathers.

"A largely unregulated banking industry," he writes, "converged, fatally as it has turned out, with falling interest rates in the early 2000s." The unregulated issuers of credit-default swaps, unlike regulated insurance companies, "were not required to have reserves" to pay claims. The financial industry is rife with conflicts of interest and likewise, credit-rating agencies. "Libertarian economists," he declares, "failed to grasp the dangers of deregulating the financial markets and underestimated the risk and depth of the financial crisis." And rather startlingly, he concludes: "The aggregate self-interested decisions of these institutions produce the economic crisis by a kind of domino effect that only government can prevent—which it failed to do." None of this is exactly breaking news. But coming from Posner, it is a notable rejection of free-market economics; Adam Smith's core teaching is precisely that individual self-interest aggregates to a general good and that government should keep hands off.

But how did all this deregulation come to pass? Or, as a good Chicagoan might ask, what is your theory of agency? Mostly, Posner isn't saying. The book has numerous worthwhile insights, including a surprisingly Keynesian analysis of the dynamics of depressions. But its major weakness, so characteristic of the Chicago school, is to leave out political power. He warns against "an orgy of recrimination against Wall Street," though the political influence of financial elites goes a long way to explaining the collapse of regulation. To read Posner, you would think that an autonomous actor called

government made regulatory decisions in a hermetic realm beyond the vectors of power that operate upon it.

Michael Kinsley is fond of observing that the right welcomes converts while the left is suspicious of heretics. Kinsley has a point, but conversions would be a little easier to take if the convert had the decency to concede that his earlier mistaken theories had collided with reality. Posner, however, doesn't look back. The author of a leading textbook on law and economics, he was appointed to the federal appellate bench by Ronald Reagan in 1981. In the intervening 28 years, he has found time to write 53 books as well as to continue to teach part-time at the University of Chicago. This superhuman pace leads to a certain glibness, but one should welcome Posner's book even if it is a reversal without a recantation.

For a more straightforward primer on the crash, the reader cannot do better than Dean Baker's short volume, *Plunder and Blunder*. Baker anchors the gross financial and regulatory abuses of recent years in the fundamental shifts in the political economy that occurred in the 1970s. During that period, median wage growth adjusted for hours worked largely ceased, and many of the instruments that created the more balanced and managed economy of the postwar boom were either undercut by events (inflation, the oil shock, technology) or deliberately assaulted by shifts in political power (the attack on unions, the weakening of economic regulation, and the creation of a trade regime designed to serve business and undermine labor).

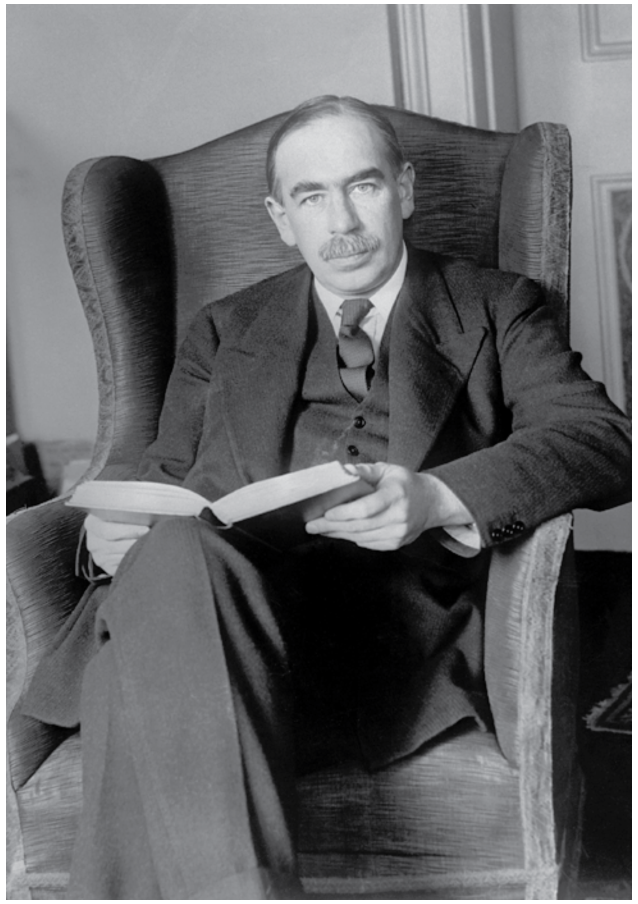
The stagnation of the incomes of most Americans, combined with the globalization of production and finance, Baker explains, set the stage: "More and more, the U.S. economy depended on something far less virtuous than productivity gains and broad prosperity. In pursuit of short-term growth, key institutions relied on risky bets and unsustainable policies. In short, we got hooked on bubbles."

To understand the dynamics of the crash that finally hit in the fall of 2008, it helps to comprehend the back story. Baker sorts out how much of the improved economic growth of the 1990s was the result of a more productive economy (some in the early years) and how much was the illusory gain of a financial bubble (most of it by the late 1990s.) He demolishes the Robert Rubin story that budget balance led to low interest rates, which in turn led to increased investment and growth. Rather, he explains, the low interest rates in a global economy had little to do with domestic fiscal policy but instead were Federal Reserve Chair Alan Greenspan's way of cleaning up after earlier bubbles and stimulating new ones.

Baker is a particularly good guide to the logic of the housing bubble. He disentangles the roles of the several culprits, including President George W. Bush, whose "ownership society" goals led the White House to induce Fannie Mae and Freddie Mac to begin large-scale purchases of badly underwritten loans. It was this policy shift coupled with serial regulatory lapses by Greenspan and others, and not the Community Reinvestment Act demonized by the right, that caused sub-prime mortgages to spin out of control. Baker has also been an astute critic of efforts by former Treasury Secretary Henry Paulson and his successor Timothy Geithner to prop up, rather than clean out, toxic securities, and he includes a useful summary of the kind of regulation that we need going forward.

The crash of the stock market in 2008 was also the crash of a reigning political ideology and its economic paradigm. While a leftist economist such as Baker never accepted the dominant view, the revisionism of a Posner attests to the breadth of that intellectual collapse. Also instructive is the new thinking of more mainstream academic economists.

For the subtitle of their new book, *Animal Spirits*, George Akerlof and Robert Shiller use the line: *How Human Psychology Drives the Economy, and Why It Matters for Global Capitalism*. "Animal spirits" is a famous phrase of John Maynard Keynes' to characterize the impulsivity of much economic behavior. Though the new discipline of behavioral economics has added fascinating details about how this irrationality operates, thanks to the ingenious experimental work at the boundary of economics and psychology by such scholars as Daniel Kahneman, Amos Tversky, and Richard Thaler, it turns out that a lot of the fundamentals are right there in Keynes.



BETTMAN / CORBIS

He Had It Right: Keynes argued that even if everyone were rational, the economy could still perform below its potential.

As the financial collapse has demonstrated yet again, markets are not self-correcting. If they were, Wall Street would not be lined up for trillions of dollars in government handouts. In saluting Keynes' quip, Akerlof and Schiller argue that much of the story is in the unreliability and incompleteness of supposedly rational behavior—the micro-foundation of the free-market model. They contend that modern economics, even self-described Keynesian economics, has given short shrift to this core behavioral insight. They embellish the idea by exploring the importance of "norms" of fairness in setting wages and prices, and the key role of confidence in sustaining both normal economic price setting and also periodic euphoria. Episodes of systemic corruption, they suggest, are just another reflection of human fickleness. "The business cycle," they write, "is connected to fluctuations in personal commitment to principles of good behavior." And people's failure to fully calibrate the costs of inflation—"money illusion" as Keynes called it—is yet another dimension of nonrationality.

The Federal Reserve has been buying all manner of junk assets. But who rescues the system when the Fed's own balance sheet starts coming apart?

Yet, almost in spite of their effort to hang a whole new macroeconomics on the idea of nonrational micro-behavior, their book also follows Keynes' other insights about the instability of a purely free market economy. For Keynes, even if everyone were perfectly rational, there could be failures of the economy to reach its production potential at equilibrium, and there could be politically generated failures to pursue sensible financial regulation. My one quibble is that Akerlof and Shiller overstate the connection between less-than-perfect rationality and systemic instability.

Their best chapter is on the limited capacity of central banks to prevent or cure calamities. As they note, the Fed cannot push short-term interest rates below zero. Shadow banks are outside the Fed's purview. And, in an observation that has been frighteningly overtaken by events, they write that "the Fed usually trades only in safe, short-term bonds." No longer. Lately, as a desperate response to a crisis partly of the Fed's own making, the Fed has been buying all manner of junk assets. As Dean Baker points out, the Fed itself can be part of the problem when it combines low interest rates with feeble regulation. This is less a matter of animal spirits than the political capture of what is supposed to be a public-spirited entity. And who rescues the system when the Fed's own balance sheet starts coming apart?

The failure of central bankers is the subject of one of the most compelling works of economic and political history to appear in many years, Liaquat Ahamed's *Lords of Finance*. His subtitle says it all: *The Bankers Who Broke the World*. Ahamed, an investment manager and financial historian, writes about the fateful three decades between August 1914 and World War II. He combines biography of the four most influential central bankers of the era with riveting narrative history and lucid economic analysis. This is a story whose broad outlines most educated people vaguely know, but Ahamed magnificently fills in the details and extracts the larger significance. As a mirror of our own times, the history is chilling.

In World War I, the great nations of Europe spent about half of their total national output slaughtering each other. To finance this bloody orgy, they borrowed. In the aftermath, they drowned in war debts. All owed massive sums to the United States, which entered the war late, profited handsomely, and emerged with its productive powers enhanced. France and Britain had the insane idea that they could find the money to pay off the war debts by squeezing Germany "until the pips squeak," as the contemporary phrase had it. They were not bothered by the fact that this was plainly impossible. Lord Cunliffe, a former head of the Bank of England and a leader of the British delegation to the Paris Peace

Conference, recommended that Germany pay $100 billion in reparations. "It was an astounding figure," Ahamed writes. "Germany's annual GDP before the war had been around $12 billion."

When the Great Depression struck, partly because of their folly, the central bankers failed again, bound by the orthodoxy of fiscal and monetary restraint.

The central bankers of the war's victors, Montagu Norman of the Bank of England, Benjamin Strong of the New York Federal Reserve, and Émile Moreau of the Banque de France, had one overarching goal—to restore the prewar gold standard. Their German counterpart, Hjalmar Schacht of the Reichsbank, appointed in the aftermath of Germany's ruinous hyperinflation, had a different goal—to lift the crushing burden of war reparations that was sandbagging the German economy and by extension the economies of the rest of Europe.

Had these central bankers not been so utterly orthodox in their thinking, they might have grasped that their historic role was not to restore the gold standard but to relieve Europe of the downdraft of war debts so that normal production and commerce might resume. In the end, they managed neither to restore the gold standard nor to get commerce flowing. And when the Great Depression struck, partly as the logical consequence of their folly, the central bankers failed yet again, bound by the orthodoxy of fiscal and monetary restraint.

In 1931, the final collapse of the debt-ravaged German economy ensued. That spring, the central bankers made one last effort to resolve the debt crisis. They failed, despite pleas and threats from

Banker Gone Bad: The Reichsbank's Hjalmar Schacht with Adolf Hitler in Berlin, May 5, 1934.

AP IMAGES

Schacht, who had stepped down as head of the Reichsbank. By early 1932, German production had fallen 40 percent and a third of the work force was idle. Hjalmar Schacht went over to the Nazis, subsequently becoming Hitler's minister of the economy, directing public works and rearmament.

Once again, a familiar figure makes a fleeting appearance in this story—John Maynard Keynes. It was Keynes, as a young adviser to the British Treasury at the Paris Peace Conference, who warned about the catastrophic consequences of the policy of extracting crushing war reparations. Subsequently, in one of the most prescient tracts of the era, "The Economic Consequences of the Peace," Keynes explained that if Germany were to pay reparations at all, its economy had to recover. "If Germany is to be milked," Keynes wrote, "she must not first of all be ruined." Despite a brief flirtation with Keynes by Prime Minister David Lloyd George, his warnings were ignored.

Keynes would get his chance, 25 years later, when as the leader of the British delegation at Bretton Woods, he helped construct a postwar financial and monetary system that used public institutions to restore credit and economic growth, rejecting the deflationary tendencies of private finance. As always, his enemies were the barons of banking, backed by their allies in government, who wanted to rely entirely on private financial flows and a system biased toward the interests of creditors.

"There is no greater testament of his legacy," Ahamed writes, than the fact that the world avoided a repeat of the Great Depression for six decades. But the Keynesian moment at Bretton Woods was very much the exception to a century-old pattern. Ordinarily, the forces of orthodoxy rule—as they do today, notwithstanding Wall Street's disgrace. It takes extraordinary circumstances for the top financial officials of leading governments to be as radical as Keynes.

The malfeasance of today's central bankers has different particulars but a common element—orthodoxy. However, orthodoxy has a different meaning today, one that seems almost opposite to the rigor of the keepers of the gold standard but in its own way, just as unreal and dangerous. The parallels between the 1920s and the 2000s begin with a common element. Alan Greenspan and Ben Strong both pumped up a stock market bubble with cheap money and feeble regulation. The relative economic weakness of Europe allowed Strong to reconcile his penchant for a gold standard globally with support for cheap money at home. When Strong died in 1928 and the stock bubble seemed increasingly dangerous, his successors excessively tightened credit.

Today, however, orthodoxy has come to mean doing whatever it takes to revive the Wall Street casino. The plan recently announced by Treasury Secretary Geithner and Fed Chair Ben Bernanke is intended not to drive the money changers from the temple but to lend them public funds so that they can double down on their bets.

The Fed's own balance sheet will quadruple. The one common thread that links the failed central bankers of Ahamed's tale with the folly of Geithner and Bernanke is that all were working hand in glove with private financial elites.

The economic ideology of laissez-faire has been shattered, but the political power of Wall Street is oddly intact. Keynes may be honored again in unlikely places, but as far as public policy is concerned, he is honored in the breach. **TAP**

BOOKS

GETTING SMARTER ABOUT IQ

INTELLIGENCE AND HOW TO GET IT: WHY SCHOOLS AND CULTURES COUNT
BY RICHARD E. NISBETT, W.W. Norton, 304 pages, $26.95

BY DAVID L. KIRP

ALL HELL BROKE LOOSE 40 YEARS ago when Arthur Jensen's 120-page article, "How Much Can We Boost I.Q. and Scholastic Achievement?", appeared in the *Harvard Educational Review*. Critics accused Jensen of racism and worse; noisy protests erupted at Berkeley, where Jensen taught. The flash point was race. Jensen contended that immutable, genetic differences accounted for much of the IQ gap between blacks and whites. And this genetic basis, he argued, spelled failure for Head Start, a program meant to close the gap.

Liberal dissents notwithstanding, Jensen's "genetics is destiny" position had legs. A quarter-century later, Richard J. Herrnstein and Charles Murray recycled the same arguments in *The Bell Curve*, which sold more than half a million copies in hardcover, an astounding figure for a densely written tome running nearly 1,000 pages. Their central claim was that genetically determined differences in IQ, rather than advantages of wealth or education, largely explained the American social class structure and racial divide. Since intelligence is largely inherited, Herrnstein and Murray argued, social inequalities don't reflect prejudice; rather, they reveal meritocracy at work in the triumph of a "cognitive elite." Here was seemingly reputable social science providing a respectable rationale for ending social welfare.

Although there have been many responses to Herrnstein and Murray, Richard Nisbett's new book, *Intelligence and How to Get It*, advances the discussion. Synthesizing a wide array of research from neuroscience, psychology, education, and post-Jensen-era genetics, Nisbett shows why the key claims of the hereditarian camp are wrong—why intelligence isn't fixed at birth and why racial differences in IQ and educational achievement aren't rooted in genetics. And he analyzes the various means by which intelligence can be acquired.

Nisbett marshals supporting evidence for his case from all corners of the scientific universe. Consider the Flynn Effect—the remarkable fact that each generation scores as much as 25 points higher on IQ tests than the preceding generation—which can only be explained by changes in the environment. Harvard sociologist Robert Sampson has shown that growing up in a dysfunctional neighborhood reduces a black child's IQ by about 4 points—the equivalent of a year of school. Quantitative geneticists have demonstrated that raising a child in a well-off rather than a poor family can make as much as a 25-point difference in IQ—a "truly massive effect," as Nis-

bett notes—and that, for poor children, environmental factors explain almost all the observed variations in IQ. Biological geneticists have found that genes trigger environmental influences; what's more, environmental differences determine gene expression. In place of the "nature *versus* nurture" model, scientists now see nature as being reshaped *through* nurture and nurture *through* nature. Just as second-generation Asian Americans are several inches taller than their parents because of better diet, IQ can improve with better schooling and medical care. Theoretically, the sky's the limit: "*The degree of heritability of IQ places no constraint on the degree of modifiability that is possible.*"

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The evidence is similarly overwhelming that social circumstances explain racial differences in IQ and educational achievement. In recording low IQ scores and poor school performance, blacks in the United States resemble other stigmatized minorities such as Catholics in Northern Ireland and Sephardic Jews in Israel—take those groups out of the societies where they are regarded as inferior, and they do better. Black females are twice as likely to have IQ scores above 120 as black males, a finding for which there is no possible genetic explanation (the opposite is true for whites; males are overrepresented at both the higher and lower end of the IQ curve). Or consider this: When U.S. soldiers occupied Germany during and after World War II, black as well as white GIs fathered children with German women. The IQs of the two groups of children were essentially the same—a particularly remarkable finding since these mixed-race youngsters were likely the targets of prejudice in postwar German society.

How, then, can intelligence be acquired? *Intelligence and How to Get It* analyzes an array of interventions—ranging from eye exams to smaller classes, wealth transfers to reductions in maternal stress—that reduce the race- and class-achievement gaps. For Nisbett the issue isn't whether to intervene, as *The Bell Curve* would have it, but rather how to intervene most effectively. Because *Intelligence and How to Get It* assesses many of the policy options, it's a good starting point for a discussion of which strategies get the biggest bang for the buck.

Nisbett explores promising pedagogical approaches for improving the academic performance of minority students, among them student-helping-student "cooperative learning" and a new generation of computer-driven instruction. He describes inexpensive interventions that address what psychologist Claude Steele calls "stereotype vulnerability"—the anxiety, especially strong among African American youth, about being seen as intellectually inferior, which renders them less likely to succeed in school. Showing black students that intelligence is malleable—even without telling them anything about themselves—can improve their academic performance. For instance, when minority high school students were introduced to neuroscience and taught how the brain, rather than being fixed at birth, develops throughout life, their overall grades improved.

Intervening early in children's lives before they set foot in kindergarten can work small miracles. Random-assignment studies of iconic programs like Perry Preschool and Abecedarian, which offered top-drawer early education to poor black students, have shown life-long effects, including significantly higher graduation rates and incomes as well as lower crime rates. Even Head Start, which Jensen pronounced a failure, turns out to have a positive effect, and so does high-quality pre-kindergarten.

Schools aren't the only influence on what children learn—they're not even the biggest influence. Fetal exposure to alcohol, low birth weight, malnutrition, high lead levels, poor health, inadequate medical care, neighborhood instability, and lapses in parenting practices such as not reading and talking to children—each of these factors makes a significant difference, and invariably, poor children fare worse.

Uncorrected vision problems are a simple example. One-quarter of American children have uncorrected poor eyesight, and the percentage is far higher among low-income kids. In a study of two inner-city New York high schools, more than half of the students failed the vision test. It took the death of a 12-year-old Maryland child from an untreated toothache that progressed to a brain infection for Americans to wake up to the fact that dental health matters—tooth decay has cost 51 million missed school hours annually—and that if you're a poor child, good dental care is hard to come by. Add high rates of asthma to the equation, and it's easy to see why many poor kids don't shine in the classroom. Imagine trying to learn while your gums are bleeding, you're having problems breathing, and you can't make out the blackboard.

The legacy of the hereditarians—the belief, still prevalent in some circles, that the racial and class gaps in IQ and educational achievement are inherited and unchangeable—has allowed many Americans to rationalize the miserable conditions that many poor children face. There's no excuse for that indifference now. The evidence is in, and if we want to close those gaps, Nisbett's book shows us what we can do. TAP

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Radicalizing Love

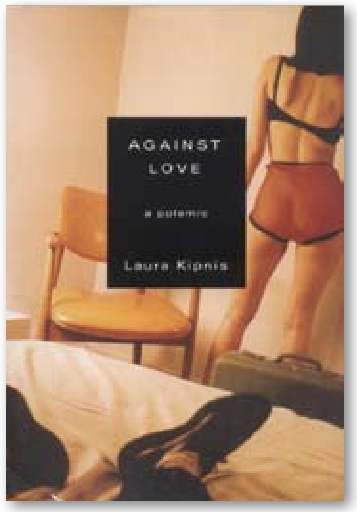
BY JESSICA VALENTI

WOMEN'S AND GENDER STUDIES CLASSES HAVE a familiar canon. *Women, Race and Class* by Angela Davis. *The Feminine Mystique* by Betty Friedan. *Feminist Theory: From Margin to Center* by bell hooks. Books about love as a form of capitalist enslavement and adultery as a radical political act—with pictures of lingerie-clad women on the cover, to boot—don't often make the cut. But of all the feminist literature I've read, from Judith Butler–style high theory to photocopied 'zines, it is Laura Kipnis' *Against Love: A Polemic* that most profoundly changed the way I think about politics.

Against Love is exactly that: an unabashed critique of romantic love. When I first picked up the book, about a year after completing my graduate degree in women's and gender studies, I was skeptical. I had read polemics before, but an unwavering stance against *love*? It unnerved me. As a serial monogamist who tended to put as much time and attention into my relationships as I did my career, education, and personal well-being, love was something in which I was deeply invested.

But once I got over the initial shock of thinking of couplehood as something potentially limiting, I couldn't get enough of the idea. I passed the book around to friends (especially those who liked to ask when I'd be getting married), showing them the section where Kipnis lists pages of answers to the question, what can't you do because you're in a couple?: "You can't just walk out on your job or quit in a huff. You can't make unilateral career decisions, or change jobs without extensive discussion and negotiation. You can't have your own bank account." She continues, "You can't leave the dishes for later, wash the dishes badly, not use soap, drink straight from the container." All of a sudden, it didn't seem like such a bad idea to spend my energy on more selfish pursuits. I don't think it was a coincidence that after I dropped my beau, I ended up cranking out my first book.

Kipnis' book inspired more than a "personal is political" moment—*Against Love* radicalized the way I thought about feminism. Kipnis does more than take on the day-to-day minutiae of relationships. She offers a full-blown critique of a society structured so completely on the idea that people should be coupled. And not just coupled but partnered off in stable, efficient, and, well, passionless relationships that don't threaten the capitalist status quo. After all, who spends more time at the office than one half of a couple looking to avoid home? And who shirks responsibility more than someone head over heels in lust?



Kipnis' framing of adultery as a radical act—"the sit-down strike of the love-takes-work ethic"—really stuck with me. Not because I was down on monogamy (though the book certainly makes you rethink how much you want a pick-up-the-kids, take-out-the-trash kind of relationship) but because it made me think of feminism as the adultery of social norms. What do you mean you want to keep your own last name when you get married? Or refuse to buy that wrinkle cream? Or play baseball instead of softball? I liken feminism to cheating on the deeply ingrained gender standards that our society clings to as tightly as it holds on to the idea of love.

I also realized that if Kipnis could unequivocally declare that love—of all things, love!—was crap, then there was nothing I couldn't say without hesitation. I stopped being the kind of pro-choicer who calls abortion a sad reality, a tragic choice, or some other such nonsense. There's nothing wrong with abortion. I also swore off the protestations and disclaimers that often come with feminism: "I swear, feminists like men! We shave! No Birkenstocks for me!" No more of that. I'm a feminist. No explanation necessary. It was freeing to leave the equivocations behind.

In fact, Kipnis' book was so good at getting me into a decided state of mind that I've recently been able to say "screw it" to her book's very premise: I'm getting married this year. And frankly, I'm betting that Kipnis has better prepared me for wedded bliss than anything else I've been subject to regarding relationships, from bridal magazines to parental advice. Because now I know what I'm getting into, laundry woes, capitalist constructions, and all. And that's why *Against Love* sits on my bookshelf, right next to the bell hooks and Judith Butler, where it belongs. TAP

Jessica Valenti *is author of* The Purity Myth: How America's Obsession with Virginity is Hurting Young Women *and founder of Feministing.com.*

The problem beyond the peanuts.

Feeding human antibiotics to hogs makes salmonella harder to cure.

For the hundreds of Americans who have been sickened by salmonella-tainted peanut products, life-saving antibiotics are helping to prevent a catastrophe. But if we don't change our livestock feeding practices, soon the salmonella may win.

On many large industrial farms, antibiotics commonly used by humans are fed routinely to the animals, not to cure illness but to compensate for crowded, unsanitary conditions and to stimulate faster growth. Unfortunately, this also promotes the development of new and deadly strains of drug-resistant bacteria.*

Congress needs to protect American consumers by preventing the misuse of antibiotics in animal agriculture. It's time to pass the **Preservation of Antibiotics for Medical Treatment Act (H.R. 1549 and S. 619)**.

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*For references and additional background, see "Antimicrobial Resistance and Human Health," a technical report of the Pew Commission on Industrial Farm Animal Production, at www.pcifap.org.

www.SaveAntibiotics.org